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Ontario Royal Commission on expanding labour  
disputes.

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ROYAL COMMISSION  
INQUIRY INTO LABOUR DISPUTES

363

HEARINGS HELD AT  
TORONTO

VOL. NO.

38

DATE

May 12, 1967

*Official Reporters*

NETHERCUT & YOUNG LIMITED  
48 YORK STREET  
TORONTO 1, ONTARIO  
TELEPHONE 363-3111





IN THE MATTER OF The Public  
Inquiries Act, R.S.O. 1960,  
Ch.323

---At 10:45 A.M., the Court - and-

IN THE MATTER OF an Inquiry  
Into Labour Disputes

Council of the United Brotherhood of Carpenters and  
Joiners of America, George F. McCurdy, Secretary-  
Treasurer. Mr. McCurdy, we have had an opportunity

BEFORE: The Honourable Ivan  
C. Rand, Commissioner,  
at 123 Edward Street, on  
Toronto, Ontario, on  
Friday, May 12, 1967

E. Marshall Pollock, read Counsel to the Commission

APPEARANCE:

The Ontario Provincial Council, United  
Brotherhood of Carpenters and Joiners of America

Geo. F. McCurdy

W. Hague

S. Brodack MR. McCURDY: Thank you very much, Sir.

A.J. Campbell if we just summarize a bit, even

N.C. Hilborn had some brief opportunity to go

through our presentation. It may be helpful if we do  
Sarnia Construction Association

this. May I first, Sir, introduce my associate who  
E.P. Coslett General Manager

are here with us this morning. On my far right is

N. Bolton  
Mr. Hague from Niagara Falls, who is a Vice-President

W. Rankin  
of the Ontario Provincial Council. Next to him is

Ray Curran  
Mr. Brodack from the Lakeshore, who is also a Vice-

K. McCormack  
President. On my extreme left is Mr. Nelson Hilborn,  
Nethercut & Young Limited, Official Reporters, 48 York  
Street, Toronto, Ontario. Per T. F. Conlin, sworn.





Toronto, Ontario,  
Friday, May 12th,  
1967.

---At 10:00 a.m., the Hearing commenced.

MR. POLLOCK: The Ontario Provincial Council of the United Brotherhood of Carpenters and Joiners of America, George F. McCurdy, Secretary-Treasurer. Mr. McCurdy, we have had an opportunity although short, to examine your Brief and find it extremely interesting. The manner of presentation in these hearings is extremely informal and you can adopt whatever approach you think best suits the presentation. You can read part of it or you can read it all or you can summarize it or you can talk around it and anybody is free to talk and comment and we hope we will be able to elicit in a full and frank manner all the points that you want to bring up and some of the particular ones that we are interested in.

MR. McCURDY: Thank you very much, sir. It may be helpful if we just summarize a bit, even though you have had some brief opportunity to go through our presentation. It may be helpful if we do this. May I first, sir, introduce my associates who are here with me this morning. On my far right is Mr. Hague from Niagara Falls, who is a Vice-President of the Ontario Provincial Council. Next to him is Mr. Brodack from the Lakehead, who is also a Vice-President. On my extreme left is Mr. Nelson Hilborn, a Vice-President, representing the furniture industry





1 and on my immediate left is our President Albert  
2 Campbell, from Kingston, Ontario.

3 Now by way of summary, sir, we have  
4 attempted to give some brotherhood background, some  
5 background of our organization which we felt might  
6 give you some insight as to how we operate in the  
7 Province of Ontario and also on <sup>the</sup> international level.  
8 Our international membership is in excess of 800,000  
9 with 32,000 Canadian membership and 30,000 plus  
10 Ontario members. The organization structure is  
11 found in major areas of construction, furniture,  
12 cabinets and the lumber and sawmill industry and  
13 significantly a 50% of our membership comes from  
14 the industrial section of the Ontario industry.

15 The O.P.C., the Ontario Provincial  
16 Council was chartered in the year 1912 and serves as  
17 the legislative education arm of the United Brother-  
18 hood in the Province of Ontario. Local unions and  
19 district councils affiliate to the Ontario Provincial  
20 Council. The Council operation centers upon brief  
21 presentations and collateral efforts of the provincial  
22 and municipal levels of government, considerable  
23 involvement in collective bargaining particularly of  
24 the more critical stages of the process, that is in  
25 conciliation. We have a research department which  
26 accommodates information needs of the local unions and  
27 different councils in collective bargaining. We have  
28 a strike and defence fund which is administered by  
29 the Ontario Provincial Council and this fund provides  
30 benefits to strikers involved in authorized work





defence of the organization.

by

Under Trial/Headlines I would just like to point out some of the salient points made there. We submit that the labour movement has been tried by strike headlines in Ontario press for too many years. We say if there is to be any justice for Ontario workmen we must look beyond the headlines which sometimes perpetuate the obsolete stereotype of labour to the underlying causes and historic provocations. The labour movement has shown commendable restraint we believe and also patience in the injunction becoming a potent instrument to thwart the interests of the working people in this province. We compare the injunction problem here with the civil rights struggle in the United States, and we make the point that we are not anarchists or advocates of lawlessness any more than people were in that great movement in the United States of America. Obviously the only hope for change lies in this case in a more dramatic protest to bring into sharp focus the injustice of the law. We regard the strike as an essential ingredient of bargaining power without which there can be no genuine collective bargaining. This principle was clearly enunciated by Mr. Justice McDermott in his 1966 ruling in which he refused to ban picketing on a Toronto apartment building. Mr. Justice McDermott said "the Court does not seek to take away the last weapon strikers have for endeavouring to obtain fair treatment from



1 employers". Members of our organization are  
2 reported in the Study of Labour Injunctions in  
3 Ontario as having participated in 10.5% of all  
4 strikes over the study period. In spite of some  
5 possible aberrations of the process and we do admit  
6 the occasional sin, sir, labour has discernibly  
7 practiced judicious use of a strike weapon.

8 The statistics and I refer to the  
9 statistics in the Study of Labour Injunction in  
10 Ontario, and strike headlines we know sometimes tend  
11 to reduce the labour movement in the public estima-  
12 tion but when you measure the minimal public  
13 inconvenience of the small strikes in our industry  
14 in particular and I speak of the construction  
15 industry against the positive contributions of the  
16 labour movement over the years, one does clearly  
17 concede the public interest has superseded labour  
18 interests. The strike has wrought many changes and  
19 improvements for the worker which would never have  
20 been possible if workmen were left to the benevolence  
21 or uncontrolled will of the employer for just treat-  
22 ment.

23 The next is Picketing and Injunctions.  
24 We regard picketing as the principle means of  
25 publishing our position in the labour dispute. This  
26 is very clearly a form of communication and a form  
27 of speech deserving of some protection in Ontario  
28 legislation. We submit that sub-section (2) of  
29 Section 366 of the Criminal Code <sup>should</sup> be amended to  
30 include the idea that in the case of labour dispute





1 a person may attend at or near a place for the pur-  
2 pose of persuading others to support his side of the  
3 dispute without this being watching or besetting.  
4 The injunction is regarded as an enormous delivery  
5 to the balance of power to management. The interim  
6 injunction was designed originally as a remedy to  
7 maintain conditions in the same balance until the  
8 dispute between two parties was settled. The use  
9 of the injunction today accomplishes precisely the  
10 opposite. The anti-picketing injunction would,  
11 whether it prohibited all picketing or limiting,  
12 usually it places the employer in a position to  
13 break the strike. We believe that anti-picketing  
14 injunctions should be totally prohibited. The  
15 appropriate remedy would then be applied by sanctions  
16 against lawful acts in the Criminal Code.

17 MR. POLLOCK: You mean against unlawful  
18 acts?

19 MR. McCURDY: Yes, I meant unlawful. If  
20 pickets unlawfully interfere with other people's  
21 rights and create a disturbance and commit assault  
22 or are guilty of similar misdemeanours the criminal  
23 law is there to punish them and protect the public.  
24 The courts during the 1920's, 30's and the mid-40's  
25 significantly refused to issue injunctions where  
26 there was an allegation of criminal misconduct on  
27 the pickets. And we refer to Mr. Justice Middleton's  
28 1924 decision in the case of Robinson vs Adams..

29 Short of abolishing the anti-picketing injunction  
30 we would recommend, sir, amendments to the Judicature





1 Act: No. 1 - deletion of breach of the peace and No. 2 -  
2 damage to property used to justify anti-picketing  
3 injunction should not be insignificant or immaterial.

4 Strikebreakers - the tragedy at Reesor  
5 Siding in our judgment should more than justify anti-  
6 strikebreaker law in Ontario and we underline that  
7 point, sir. Other jurisdictions have enacted some  
8 form of anti-strikebreaker laws. Significantly the  
9 Honourable Minister of Citizenship and Immigration  
10 and Manpower, Mr. Jean Marchand, has unequivocally  
11 stated that Canada should have a law to prevent the  
12 use of strikebreakers in labour conflicts. If the  
13 law does not go far enough to prohibit the use of  
14 strikebreakers it should at least require an employer  
15 to rehire all of the striking employees once the  
16 settlement of the strike is reached.

17 Compulsory arbitration. We are un-  
18 alterably opposed to compulsory arbitration for  
19 Canada. Our goal should be preservation of a  
20 maximum reliance on collective bargaining. The  
21 inherent fear is that once the pattern is set for  
22 government intervention to settle strikes the parties  
23 will cease to bargain with each other. This would  
24 inhibit negotiations, etc.

25 Labour Management Cooperation. Labour  
26 Management Committees will surely not be the panacea  
27 of all problems in the industry, but could be a giant  
28 step in the direction of generating a new and healthy  
29 spirit for Ontario industry if the parties could  
30 avoid the deception associated with the construction



1 industry effort in 1962.

2 Wildcat Strikes. Employers in the  
3 construction industry were as vocal before the  
4 selective committee of the legislature in 1957 as  
5 they have been before this Commission about wildcat  
6 strikes. And also the thought of going to Washington  
7 for decisions to resolve jurisdiction disputes in  
8 this province. These same employers, sir, were the  
9 exponents of a Canadian authority and after getting  
10 that authority established here in Ontario they  
11 supported <sup>the</sup> Ontario government in making that authority  
12 totally unworkable. They ignored the advice of Mr.  
13 Justice McRuer, H. Carl Goldenberg, Judge Lang, and  
14 everyone else. Now they don't point an indignant  
15 finger at the Washington authority and the labour  
16 movement. But the inertia of government, sir, and  
17 the confusion within employer circles and trade  
18 jurisdiction has precipitated very many of these  
19 strikes which they condemn.

20 Organization. The lawyer's advice  
21 to the employers group and the familiar petitions  
22 before the Labour Relations Board for certification  
23 applications are the kind of nefarious practices  
24 which have provoked innumerable strikes and deprived  
25 thousands of second class industrial citizens  
26 adequate pay, decent hours of work, the dignity all  
27 workmen deserve. The odd employer gets caught playing  
28 these games and most are sophisticated enough to play  
29 the game a bit more cautiously and more subtly.  
30 Occasional exposure and the meagre penalty has failed





1 to deter this age old practice. These unorganized  
2 workmen are inexplicably caught in the vise. The  
3 freedom to strike with pickets is the only salvation  
4 for these workmen.

5 The legal entity. Employers have  
6 signed the clarion call for a repeal of the Rights  
7 of Labour Act. This would be, sir, disastrous in  
8 our judgment for the labour movement in this  
9 province. We could never match with union dues'  
10 dollars the swollen bank accounts of the large  
11 corporations of this province.

12 That represents this summary, sir.

13 MR. POLLOCK: Thank you Mr. McCurdy.  
14 First if we can we could have a look at the sub-  
15 mission you make in relation to anti-strikebreakers.  
16 You list first of all on page 18 several States in  
17 the United States and you mention some cities as well,  
18 having anti-strikebreaker legislation. Now my  
19 experience with some of this legislation and I don't  
20 know if it is all the same but I am persuaded that  
21 it is fairly close to a particular pattern. This  
22 legislation relates to professional strikebreakers,  
23 to people who make a living going around from one  
24 place to another breaking strikes and have at least  
25 exhibited a pattern of working at places where strikes  
26 are in progress, not directed to the people who  
27 perhaps we loosely call strikebreakers who are members  
28 of a community and unemployed or employed at poor  
29 rates, to decide that the conditions that have been  
30 offered by the particular employer who is on strike





1 and for some reason unsatisfactory to the original  
2 employees, they go on strike, and these people from  
3 the community go in and work there. So far I haven't  
4 been able to discover any legislation in the United  
5 States that relates to those individuals. Perhaps  
6 you could help me on that?

7 MR. McCURDY: I haven't either, Mr.  
8 Pollock, and I don't know of any of the States  
9 which have the total coverage as far as strikebreakers  
10 are concerned and they do make references in the  
11 majority of instances to out-of-State people who are  
12 professional and who move into those States. But  
13 this to us represents a recognition of the need to  
14 move in that direction of doing something to curtail  
15 the efforts and the operation of the strikebreakers.  
16 And it would seem according to our informants in the  
17 United States that it would seem inevitable that they  
18 will move eventually to covering a bit more, such as  
19 covering persons coming from other cities into the  
20 area who seek to take over employment. But they  
21 really haven't gone that far as yet.

22 MR. POLLOCK: Well they do in some  
23 cases. Some of the jurisdictions don't limit it to  
24 people crossing State borders. But the common basis  
25 of liability so to speak is the fact that they are  
26 participating and have participated in strike-  
27 breaking before or demonstrated some pattern of  
28 moving around so to speak to come into the strike  
29 and they are only there temporarily as a weapon  
30 against the people who are working there, and they



1 are not there legitimately because they are  
2 attracted to the particular working conditions that  
3 are in dispute. The only one that comes clearly to  
4 mind in Ontario is the Toronto newspaper strike. I  
5 think there are allegations in that case where  
6 professional strikebreakers were brought in of this  
7 kind, of this crew of people that allegedly exists  
8 and I don't know whether they do or not, that are  
9 prepared to go in if the newspaper has a strike in  
10 Portland, Oregon, and to Vancouver and to Toronto  
11 and to Alabama, all over the place. They just move  
12 around and this is their job, to help the employer  
13 with the strike. They are not the kind of people  
14 who are interested in working there permanently and  
15 continuing on in their employment in the ordinary  
16 terms and conditions that the employees that worked  
17 there before are dissatisfied with. That is my  
18 understanding and am I correct on that?

19 MR. McCURDY: That is correct, yes.

20 MR. POLLOCK: Now have you in your  
21 jurisdiction as a craft union or at least half of you  
22 as a craft/and half of you as an industrial union, in  
23 your craft experience have you been bothered by this  
24 type of strikebreaker?

25 MR. McCURDY: Yes we have, sir.

26 MR. POLLOCK: A non-union person?

27 MR. McCURDY: A non-union person, yes  
28 sir.

29 MR. POLLOCK: Are the employers in  
30 the construction industry that organized that they





1 can call on a pool of people out of the jurisdiction  
2 to come in, or are these just itinerant carpenters  
3 who are non-union and consequently have to find  
4 places where unions aren't in strength?

5 MR. McCURDY: I think, sir, if we  
6 could believe it the employer would not be organized  
7 to this extent that he would wait for a strike to  
8 develop in his area and then he has a pool that he  
9 calls upon to bring the strikebreakers in, no I don't  
10 think this is the case. But where he has a showdown  
11 and where the dispute develops and there is the man-  
12 power situation that is suitable there, that he may  
13 call upon the non-union people<sup>and</sup>/he will do so. Of  
14 course we are more vulnerable in the construction  
15 industry because we don't have always a great number  
16 of people working on the projects, much like the  
17 larger industries where they have five hundred or a  
18 thousand people.

19 MR. POLLOCK: What type of legislation  
20 do you suggest for this province?

21 MR. McCURDY: We suggest, sir, that  
22 we aren't aiming in this case, and I guess you would  
23 refer to them as the "scab", the person who is  
24 within the bargaining unit. They have struck so  
25 then the contest begins between labour and management  
26 to win the loyalty of the employees. If he by chance  
27 wins the loyalty of some of his employees to go back  
28 then this is something that we are not attempting to  
29 control. But where he will advertise as was the case  
30 and this was pointed out in the Brief, in the case of





1 Superior Box with Mr. Kaufman where he advertised  
2 as widely as he could for people interested in coming  
3 in to find employment at that time. Now out-of-  
4 province I think is one area that should be covered.  
5 We also believe that it shouldn't be proper for the  
6 employer to advertise and get strikebreakers from  
7 neighbouring cities and so on.

8 THE COMMISSIONER: Well he's not  
9 doing anything that he hasn't a perfect right to do.  
10 You want to be free yourself to call on any economic  
11 means of pressure. Why do you think that society  
12 would handicap him as against you?

13 MR. McCURDY: We aren't, sir, attempt-  
14 ing to handicap him unnecessarily, and this is the  
15 very point we make throughout. We don't want the  
16 great imbalance here but if he is involved in a  
17 contest with the loyalty of his own employees that  
18 is fine. But when he closes the plant as was the  
19 case in furniture a very sad situation, where the  
20 employees in that plant came out; they were on the  
21 picket lines and just a handful of people who came  
22 from out of the area went into the plant and they  
23 went in and turned on all the machinery so that the  
24 machinery was running and this had a tremendous  
25 psychological effect on the people out on that line.  
26 Those people had worked in that industry some time I  
27 believe it was forty years seniority in the plant.

28 THE COMMISSIONER: Of course it is a  
29 tragic thing for them, but on the other hand you  
30 can't blame freedom of action on your own part and



1 deny it to persons whom you are contesting. There  
2 may be, and I agree that if a man goes into work,  
3 and not to obtain employment but to defeat the  
4 strike you can make a distinction there. I want  
5 work and I go into a plant and I must have work in  
6 order to live with my family. That is my right on  
7 the basis of the existing law as it is, and I think  
8 your claim to prevent that is very weak. On the  
9 other hand if I am a professional man, to come  
10 around and destroy you as a striker then you've got  
11 in effect another form of conspiracy. The object  
12 isn't to obtain employment, the object is to destroy  
13 a strike.

14 MR. POLLOCK: And the Union. The  
15 usual basis for describing strikes and lock-outs if  
16 they do occur any more, is economic. They say it is  
17 an economic test of power. Now if it is an economic  
18 test it is a test of the economic reasonableness of  
19 the two parties as well as the economic strength of  
20 the two parties, isn't it? Now let me explain that.  
21 If the employer says I will give you two dollars an  
22 hour and you say, no, we think we are entitled to  
23 three dollars an hour, then it is a test compared to  
24 the labour market in the general area as whether  
25 your price of three dollars an hour is a reasonable  
26 one or whether his offer of two dollars is a reason-  
27 able one. It is claimed that his is unreasonable,  
28 isn't that correct?

29 MR. McCURDY: Yes.

30 MR. POLLOCK: So the only way to





1 measure that - testing the reasonableness, is to  
2 have a strike and you are going to say that you are  
3 not going to get anybody to work under these  
4 terrible conditions and he is saying that I am going  
5 to if I can. And if he can his wages are at a level  
6 that will attract people from the community who have  
7 poorer paying jobs or who are unemployed then the  
8 economic and not the social, the economic sense of  
9 his argument is made. Your price was too high for  
10 the local community. That is the argument that is  
11 advanced on behalf of employers saying we need the  
12 freedom to attempt to show to the Union that their  
13 position is unreasonable in these circumstances,  
14 and that is that we can obtain people for less  
15 amounts of money and under the same conditions that  
16 they had when they went on strike. That of course  
17 doesn't apply to the professional strikebreakers  
18 that we have talked about who come in in many cases  
19 for excessive amounts of money because of the short  
20 duration of their employment. If you eliminate this  
21 access to the general working community of the  
22 employer, how is he then going to be able to test  
23 the reasonableness of your demand. If you say to  
24 him "you require us to work on this job and we are  
25 going to ask you for whatever we want and if you  
26 want to operate that job you will have to meet our  
27 request, because you aren't now permitted to engage  
28 anybody else to do this job."

29 MR. McCURDY: Sir, I agree with most  
30 of what you say, but the real travesty here is where





1 you have the contest between labour and management  
2 and the employer has his operation shut down  
3 completely. But he goes out and invariably in some  
4 of the areas and I'm thinking of a local situation,  
5 he calls upon the people who have very little  
6 employment, low economy in the families and so on.  
7 So he brings them in as the third party to the  
8 situation, so you have a contest not between the  
9 employer but a contest a contest between the people  
10 who are fighting for their jobs and fighting for  
11 equity in that bargaining situation and walking the  
12 line to do so, you have a struggle between these  
13 two workers. The workers in a situation are  
14 drawn together in a contest and that shouldn't be.

15 THE COMMISSIONER: Well haven't the  
16 third persons rights themselves? You be the third  
17 person here and you say I want to work here and  
18 here is an offer, why should my neighbours say no  
19 you can't work there. You've got to starve because  
20 I have foreclosed that situation.

21 MR. McCURDY: Sir, they should have  
22 every right to work and this is the aim and  
23 objective of the labour movement to help all of the  
24 people in the community, we want everyone to work  
25 and to enjoy the prosperity of our community but  
26 why under these circumstances should you say well  
27 you haven't found employment, things have been  
28 extremely rough for you but now don't worry about  
29 a thing, we have a strike here and we're fighting  
30 against these other fellows and we can provide the



1 employment now. I don't think really this is the  
2 way to do it.

3 THE COMMISSIONER: Of course you don't  
4 because you have an interest against it, but he has  
5 an interest in favour of it. He wants work, he wants  
6 to be able to maintain his rights. You say don't  
7 interfere with my life and he says don't you interfere  
8 with mine.

9 MR. POLLOCK: He wants to improve his  
10 working conditions just the same as you want to  
11 improve yours. He may not be in the same fortunate  
12 position of having had the opportunity to be in a  
13 union workplace, he may not be possessed of all the  
14 skills and requirements of the high standards of  
15 your union, but he may be able to perform some lower  
16 grade function that may be denied. I am not making  
17 a point of denial of access to unions but I am saying  
18 there is a unity of interest in both cases. You  
19 want to get better conditions and he wants to get  
20 better conditions, and you say to him and we've had  
21 submissions from your organization of the loggers  
22 which describe some pretty frightening conditions up  
23 north and they tell us that the days of the company  
24 town are still around, and that they oppose the  
25 absolute property interest of the operator who has  
26 assigned the interest to his premises saying "union  
27 people keep out" or "union organizers" and you say  
28 that is a denial of the right to organize. You say  
29 all right this man ought to have access to organize  
30 the employees if they want to. Why the only basis of





1 your anti-strikebreaker position is the property  
2 right in a job that has been expressed. Now you are  
3 exactly in the same point. You say this is our job  
4 and we have a property interest in it, and you Mr.  
5 Unemployed or Strikebreaker, keep out. Now how do  
6 you reconcile those two positions? I might say at  
7 this point that some of these questions don't arise  
8 directly out of the Brief and so feel free if you  
9 can't speak on behalf of the organization because you  
10 haven't had an opportunity to consult, then separate  
11 yourself. I am interested in answers from people who  
12 have experience in this movement and with these  
13 matters. So I don't want to in any way embarrass you  
14 by asking questions that will require an answer as  
15 spokesman for a particular group which you have not  
16 had an opportunity to consult.

17 MR. McCURDY: I would find it rather  
18 difficult, sir, to compare the two situations because  
19 I think we are talking really about two very different  
20 situations, completely different.

21 MR. POLLOCK: Both of them founded  
22 in a so-called right of property, absolute right to  
23 do something. He says I own this property or I lease  
24 it and it is my road and these people are in here and  
25 if they want to go out they can go out and organize,  
26 I don't have to let them into my domain, and you are  
27 saying to the people who want to cross the line and  
28 go into work "I work here for twenty years or ten  
29 years and this is my bench and my job, you stay out.  
30 I don't know what you want or what you're making, it





1 is too bad, just stay out. This is between my  
2 employer and us". It's the same thing as the  
3 employer in the woodssaying this is my property and  
4 my employees and the working conditions are ours.

5 MR. HILBORN: It has been my  
6 experience in strikes that I have been involved in,  
7 I am representing the industrial branch of the  
8 organization that it was the concern of the company  
9 of basically having employees. They know very well  
10 that there aren't that many skilled employees  
11 unemployed. If they are skilled they are working.

12 THE COMMISSIONER: How many do you  
13 mean?

14 MR. HILBORN: Well in this particular  
15 case of a six month strike, with employees and over  
16 forty-five and forty-eight years service in that  
17 company, the company had advertised across the  
18 country and had been fortunate enough to bring in  
19 people from low economic areas, particularly the  
20 eastern provinces, only for one purpose.

21 THE COMMISSIONER: But how many?

22 MR. HILBORN: There were forty-eight  
23 in this particular case out of two hundred and some  
24 odd employees.

25 THE COMMISSIONER: But the force was  
26 about two hundred?

27 MR. HILBORN: Yes, it was about two  
28 hundred and five. So they brought these people into  
29 the plant because these people as I say were down and  
30 outers and we agree that they are entitled to work.



1 However, these people were being used due to the fact  
2 of the dire straits that they were in and any-  
3 thing looked good to them. The company was using  
4 these people to break the strike and this is the  
5 only concern that the company had. They got these  
6 people into the plant. Now after six months of  
7 strike when our people went back to work their  
8 hammers and aprons were laying in exact spot where  
9 they had left them on those benches and those people  
10 were sitting in there playing euchre in the boiler  
11 rooms and so on and so forth. These people were  
12 brought in primarily to set up the psychological  
13 effect against those out on picket that these guys  
14 were in the plant doing their particular work and  
15 they were not doing it. Now out of those forty-eight  
16 employees that were brought across that picket line  
17 there are five of them left today, five years later.

18 THE COMMISSIONER: Well how did the  
19 company maintain any productive operations?

20 MR. HILBORN: They didn't.

21 THE COMMISSIONER: Then the plant for  
22 all purposes was closed?

23 MR. HILBORN: No, the whole thing is  
24 that they were attempting to set up the psychological  
25 effect of their work being carried on in the plant,  
26 and I might say involving injunctions for reducing  
27 the picket lines in order to get these people across.

28 THE COMMISSIONER: But they didn't  
29 produce anything?

30 MR. McCURDY: May I interrupt you, sir,





1 because there is a bit more information here on this  
2 question. Part of the psychology here was to make  
3 plenty of noise and make it sound as if they were  
4 producing in the plant but they had an arrangement  
5 with another union company miles away from that  
6 location and they were producing and helping to  
7 complete the contracts they already had in the  
8 province of Ontario.

9 THE COMMISSIONER: Then there was no  
10 actual production at all at that plant?

11 MR. McCURDY: None at that plant, no.

12 MR. POLLOCK: Was this arrangement  
13 made with this other plant prior to the strike or  
14 was it an ordinary sub-contracting operation or was  
15 it done after the strike had occurred?

16 MR. HILBORN: The plant work was done  
17 as the guy who is notorious in this province of  
18 setting out a pattern of breaking strikes in the  
19 province of Ontario, and it was his company that did  
20 the subletting for this particular work during the  
21 period of the strike.

22 THE COMMISSIONER: Then the entire  
23 work force went out on strike?

24 MR. HILBORN: Yes sir.

25 THE COMMISSIONER: And stayed out?

26 MR. HILBORN: Yes sir.

27 MR. POLLOCK: Mr. Hilborn and Mr.  
28 McCurdy, as I understand it this was the psychological  
29 campaign to win back your members in his employ which  
30 we agree is fair gain. He ran the machinery close to



1 the windows and made lots of noise and the smoke went  
2 up and the chips flew and everybody figured, "gee, they  
3 must be producing we better think about our position,"  
4 but you held together I take it?

5 MR. McCURDY: Yes but in taking people  
6 across that line there was one chap, Mr. Hilborn was  
7 informing us just last evening, one chap still is  
8 having difficulty with his arm. They drove the truck  
9 through the picket line and there weren't any more  
10 than I would say six at that particular gate. He  
11 had plenty of room to go through and the pickets were  
12 instructed to make room and don't obstruct under any  
13 circumstances and this fellow drove the truck through  
14 and belted the fellow away from the gate and he wound  
15 up in the hospital and he is still having difficulty  
16 and that was in 1962.

17 THE COMMISSIONER: But how many of the  
18 forty-eight were retained after the conclusion. You  
19 say that five are still there now but how many were  
20 retained?

21 MR. HILBORN: Well even before the  
22 strike was over there were approximately nineteen  
23 of that forty-eight. The company had to lay them  
24 off. No.1, there were some instances in the plant  
25 of pilfering of the office of which of course the  
26 union was accused of it in a roundabout sort of way.  
27 However, it was proven that the strikebreakers that  
28 they had hired were in some cases, I might say they  
29 were riffraff, and these people were the type of  
30 employees, they weren't concerned about a worker and





1 they weren't concerned about giving a legitimate  
2 unemployed person a chance to come into that plant  
3 and work. All they were using is the poor guy who  
4 was down and out, using him as a weapon to defeat  
5 this strike. "We don't care, we will throw you to  
6 the dogs once the strike is over, we only want to  
7 use you for this particular instance", and in this  
8 case it actually happened because as I say there  
9 are only five out of that forty-eight who are still  
10 working in that plant.

11 THE COMMISSIONER: Yes, but how many  
12 men of the two hundred went back when the strike  
13 was over?

14 MR. HILBORN: I would think roughly  
15 one hundred and seventy-two out of the two hundred  
16 and five.

17 MR. POLLOCK: What happened to the  
18 rest?

19 MR. HILBORN: Some of them refused to  
20 go back and the company refused to hire them back.  
21 I might say in a couple of instances that my dad  
22 was one involved and he had worked there forty-nine  
23 years and he was not called back.

24 MR. POLLOCK: What was the settlement  
25 finally arrived at?

26 MR. HILBORN: Well it is a long story.  
27 First of all the company, this local had been  
28 chartered and had been certified in that plant  
29 since the year 1936. All of a sudden in 1962 the  
30 company decides in our negotiations and bearing in



1 mind there was no monetary gain requested, the  
2 company we felt was in an economical problem,  
3 we had previous negotiations and we went along with  
4 that company in their plight and stated that any  
5 economic or financial additional cost to the company  
6 would create a bit of a hardship, and the employees  
7 saw this. Oddly enough the usual group of employees  
8 will say "the hang with it we want more money", but in  
9 this particular instance the local union of 205 people  
10 agreed that they would sign the contract for one year  
11 and give the company a breather. However the next  
12 year and whether this showed a sign of weakness or  
13 something on our particular part I don't know but the  
14 next year the company came out and it was the same old  
15 cry that it was the year before. However, this time  
16 they wanted to take the union's security clause out  
17 of the collective agreement, and they did. And that  
18 is since 1936, and they wanted it out.

19 MR. POLLOCK: What type of union  
20 security clause was it?

21 MR. HILBORN: A union shop - after a  
22 certain probationary period the employee would join.  
23 This is what started and the whole pattern which has  
24 been set by certain industrialists in Ontario was  
25 used in this particular instance, even to the matter  
26 of letters that this guy circulated throughout the  
27 province as the type of letters you would send to  
28 your employees in the event that you were hit with  
29 a strike and I have copies here which have been  
30 used and I know four or five other plants where they





1 have almost the same reading as these letters.

2 MR. POLLOCK: Can you leave some of  
3 those with us?

4 MR. HILBORN: Yes.

5 MR. POLLOCK: What type of security  
6 clause did he want to put in, an open shop?

7 MR. HILBORN: Completely open, yes.

8 MR. POLLOCK: I suppose that in the  
9 long run would have saved him some money if he could  
10 finally get rid of the union?

11 MR. HILBORN: Yes, but what happened  
12 I believe as far as he was concerned was that he  
13 felt as long as the union was not creating any great  
14 amount of hardship to him, and since 1936 a relation-  
15 ship had built up. It was born and raised and the  
16 guys would talk across the table with fellows they  
17 went to school with. This relationship was built up  
18 and of course as long as we were quiet and didn't  
19 rock the boat or say too much and went through the  
20 act of a union organization, that things were not  
21 too bad. However, after the war when a lot of the  
22 young chaps came back from the war the old fellows  
23 stepped down out of union offices and stewards and  
24 the younger lads stepped in and of course they  
25 happened to be a little different breed. The  
26 older chap was getting a little old and a little too  
27 tired to fight any further. When these chaps came in  
28 there was a whole rejuvenation of the local union  
29 and the company became rather concerned about it and  
30 this stepped up over the period of time which even



1 the kids' Christmas party and stag parties and  
2 everything else were now being conducted by the  
3 union rather than the company sponsoring them.  
4 I guess they decided somewhere along the line that  
5 the axe had to drop and this was what resulted in  
6 this particular strike.

7 THE COMMISSIONER: Well in effect the  
8 men went back on the employer's terms?

9 MR. HILBORN: Yes.

10 MR. POLLOCK: Did you have any idea  
11 during the strike that he wasn't producing?

12 MR. McCURDY: Initially no.

13 MR. POLLOCK: One of the clues was  
14 when you came back you found the shop in almost the  
15 same condition as when you had left it six months  
16 earlier?

17 MR. HILBORN: Well the word came out  
18 that afterwards/if we had held out for another couple  
19 of weeks we would have won it, but this is hindsight  
20 of course.

21 MR. POLLOCK: That is easy to say, yes.

22 THE COMMISSIONER: Did any of these  
23 striking employees find other employment during that  
24 six month period?

25 MR. HILBORN: We found that many of  
26 them and particularly in my own case it was quite  
27 some time before we had even what I considered fair  
28 and legitimate/what the employers would accept, because they  
29 had other employees who were hired elsewhere when  
30 the strike was finished only to be laid off in a





1 week's time and we discovered and we have documentary  
2 evidence to that, that these names were circulated  
3 and passed on to other industries and they refused to  
4 hire. It created a considerable amount of economic  
5 hardship on these people I can assure you.

6 THE COMMISSIONER: Of course there  
7 have been cases of the opposite effect. That is to  
8 say, during strikes competing employers are very  
9 glad to take on an employee.

10 MR. POLLOCK: Superior Box are where,  
11 in Kitchener?

12 MR. McCURDY: Yes, in Waterloo.  
13 Another and very interesting point about this strike  
14 which was probably the longest strike within our  
15 organization in its history, that is at Preson,  
16 Ontario. The affidavits naturally were produced in  
17 getting the injunctions to limit picketing, and we  
18 had hoped that our solicitor would be with us this  
19 morning to check, and transmit some information to  
20 you but in this case there were five deponents I  
21 believe and they established very clearly and it was  
22 patently clear, that some of those five people  
23 committed perjury. In other words they had given  
24 false evidence in submitting those affidavits which  
25 were used in getting the injunction. So we hope at  
26 some point later to arrange for our solicitor to  
27 transmit that information to you.

28 MR. POLLOCK: We would be very  
29 interested in receiving it Mr. McCurdy.

30 THE COMMISSIONER: What year was that?



1 MR. McCURDY: January 31st, 1962.

2 THE COMMISSIONER: No prosecutions  
3 were commenced?

4 MR. McCURDY: No, there were no  
5 prosecutions involved.

6 MR. POLLOCK: On the question of  
7 injunctions you suggest that the ordinary criminal  
8 law ought to be employed and injunctions ought not  
9 to be granted for a simple breach of the peace.

10 MR. McCURDY: That is correct.

11 MR. POLLOCK: In a large number of  
12 cases that are reported in the Carruthers study and  
13 having had an opportunity to examine some of the  
14 material and I don't know if this is the pattern  
15 but it might serve for illustrative purposes anyway,  
16 but a lot of the violences or breach of the peace  
17 will occur in a large crowd where they won't occur  
18 in a smaller group. Now I don't know whether just  
19 by ordinary calculation that if you get one hundred  
20 people the chances are that you are going to have  
21 more rowdy people there than you are if you've got  
22 ten, or if the size of the crowd protects these  
23 people or at least gives them a feeling of security  
24 so that they aren't going to be identified or if  
25 there is this feeling of the group therapy, it  
26 psychologically encourages them to activity which  
27 they wouldn't do if they were in the spotlight them-  
28 selves.

29 MR. McCURDY: The study has not  
30 established that violence has taken place as being





1 more incidents of violence in a case of where they  
2 have a large number or mass picketing, than in the  
3 case of the smaller pickets with two or three or  
4 four or five. The study has not established that.

5 MR. POLLOCK: The study that has been  
6 published doesn't establish it, that is correct. If  
7 you follow back to some of the affidavits in the  
8 cases that are mentioned in the study itself there  
9 is this type of situation exposed and I don't know  
10 if it is a pattern or not but it is one of the  
11 things that we are now presently investigating. But  
12 there appears a greater likelihood that this type  
13 of activity will occur when you have a large number  
14 of people than when you have a smaller number of  
15 people. The question is where do you draw the  
16 line, where does ordinary peaceful picketing end  
17 and mass picketing begin, and all the inherent  
18 dangers in mass picketing.

19 MR. McCURDY: We believe that the  
20 picketing must be peaceful and lawful, but we don't  
21 consider that there should be any restriction on  
22 the number of persons picketing, no restrictions  
23 whatsoever.

24 MR. POLLOCK: What happens in those  
25 circumstances? If you start with <sup>that</sup> assumption and  
26 it is a legitimate one that as long as it is  
27 peaceful and lawful and orderly you can do it. What  
28 happens if it ceases to be lawful, peaceful and  
29 orderly? What do you do?

30 MR. McCURDY: You have the criminal



1 code, sir.

2 THE COMMISSIONER: You would rather  
3 be arrested by a policeman for breaking the peace  
4 than being summoned to court for being in breach  
5 of an injunction?

6 MR. McCURDY: Certainly.

7 THE COMMISSIONER: Well that is your  
8 choice of course but I am not so sure of the quality  
9 of it.

10 MR. POLLOCK: I suppose an ounce of  
11 prevention is worth a pound of cure, and if it means  
12 that you have to arrest several people, and you take  
13 them down and charge them and then they can go back  
14 to the picket line again, there is no restriction on  
15 them going back, and there is constantly a change in  
16 individuals. Unless you arrest them and put them  
17 in gaol, if that is what you are thinking about ....

18 MR. McCURDY: Well we have stated  
19 this very clearly, that if there are violations of  
20 the law then the Criminal Code is there to take care  
21 of it.

22 THE COMMISSIONER: But there is a  
23 difference between the single violation of the law  
24 and the acceptance of its legality and the extension  
25 thereafter. There is a distinction between that and  
26 a continuous performance. Whereas a man is arrested  
27 at this hour, he gets bail and he may be arrested the  
28 next hour and he may be arrested ten times a day and  
29 ten people ten times a day, and the object or the  
30 purpose of the injunction is to meet such a situation.





1 If it were simply a single violation and then that  
2 was the end of it there would be no occasion for  
3 that, but that isn't the effect.

4 MR. McCURDY: I doubt very much, sir,  
5 whether we would find that many people would allow  
6 themselves to be handled in this repetitious  
7 situation of going out and violating the law.

8 THE COMMISSIONER: Well others can  
9 come in and do the same thing. You can't end things  
10 that way, by the arrest of a person as one who  
11 commits a criminal offence. Moreover, as it is  
12 recognized and certainly in the United States, you  
13 reach a point where you haven't got the support of  
14 the local police. They may be too few in number  
15 and they may be neighbours of these people and  
16 there is a natural reluctance. Also there is such  
17 a misconception of the scope of picketing. Some  
18 have stated before this Commission that really you  
19 have the right to exercise such an influence by any  
20 means as will close the plant. Now that is just a  
21 misconception, that is all, and the police are not  
22 there to sit in judgment, is this a violation or is  
23 that going too far and can they go further, can my  
24 friends go further. It may be that you might be  
25 held liable unless you can control them, unless the  
26 police force is quite effectual. But you can't  
27 handle three or four hundred men by two or three  
28 policemen. And it has been admitted and you cannot  
29 dispute it, that the greater the number the greater  
30 the likelihood of the exercise of obstruction at



1 least and obstruction is a form of force.

2 MR. HILBORN: But any acts on a  
3 picket line of contravention of the law or whatever  
4 the case may be inevitably has no effect whatever,  
5 it is for the company's benefit. In other words it  
6 is interfering and it has some effect on the people  
7 who are basically on strike. Any thought of violence  
8 or we think there may be violence or there actually  
9 is violence. But I have a shining example of this,  
10 where the company was attempting to get an injunction  
11 so therefore they said to themselves we have to have  
12 a basis for this, we have to have some evidence. So  
13 low and behold out of the people come three people,  
14 two armed with cameras. So they walk right up and  
15 they didn't take one of the fellows because I think  
16 he would have got what he wanted but he walked up to  
17 one of the women and without a word of a lie their  
18 noses were about six inches apart and he started on  
19 this woman who was on the picket line and was legally  
20 there. He tried to intimidate her into striking him,  
21 with the cameras all set. However, the boys  
22 cautioned her for heaven's sake don't hit him and  
23 she didn't, she spit in his face. Now this is  
24 exactly what happened and here is - that could have  
25 been a man and perhaps under this intimidation he  
26 might have struck this person and the evidence used  
27 for an injunction and restrictions would have been  
28 placed on that picket line. And for what cause.  
29 This is the part that we were concerned about.

30 MR. POLLOCK: Well I think you do a





1 disservice for your cause when you say that because  
2 as you have told the story today and it is the case,  
3 if the picketer had struck the provocation, then that  
4 type of evidence can be placed before court and there  
5 would be an injunction in those circumstances.

6 MR. HILBORN: Unfortunately we didn't  
7 have cameras there.

8 MR. POLLOCK: You don't need cameras.  
9 You have very graphically illustrated this morning  
10 what took place.

11 MR. HILBORN: But there could have  
12 been an interim injunction pending the hearing. So  
13 this takes a week and a half and in the meantime the  
14 pickets are reduced then the guys are going across  
15 the picket line and a week and a half later who cares,  
16 the strike is over.

17 MR. POLLOCK: Assuming you can get to  
18 court a little bit quicker than that.

19 MR. HILBORN: But that hasn't been  
20 our experience.

21 MR. POLLOCK: Under the present law I  
22 daresay. It has been suggested that one of the pur-  
23 poses of having a large number of people is the  
24 group support theory that if you have two or three  
25 forlorn people walking up and down then you don't  
26 have much support for your cause. One of the unions  
27 and I can't recall which one at the moment, has  
28 suggested that it would be acceptable to them to  
29 try and separate the bad things about picket lines,  
30 mass picketing, that is great huge clusters of people



1 gathering around every person that walks in and  
2 glowering at them, from the good point of showing  
3 that you have popular support by separating the two  
4 units, having the support with the signs a hundred  
5 yards or so away from the gate of the plant and  
6 having two or three people walking by in front of  
7 the gate. So that everytime somebody crosses the  
8 line they don't all rush over and start showering  
9 them with abuse. What do you think about that?

10 MR. McCURDY: In other words to  
11 remove the picket line from the gates where the  
12 people go through?

13 MR. POLLOCK: No, to remove the mass  
14 or the large number. If you want to have fifty  
15 people there and you've got a reasonably sized  
16 plant and you can put six or seven walking in front  
17 of the gate or two or three or whatever it is and  
18 have the remaining forty standing away from the gate  
19 so that people don't have to cross through their  
20 ranks.

21 MR. McCURDY: This is normally done  
22 anyhow, Mr. Pollock. If we have fifty pickets strung  
23 out there they are moving and completely strung out.

24 MR. POLLOCK: But it is like bees on  
25 honey. When a car comes to cross through that line  
26 then all of a sudden they just swarm over. Now I  
27 have seen pictures like that and I don't suggest  
28 this occurs in every case and I don't suggest that  
29 picketing of any numbers occurs in any case or that  
30 violence occurs but there is the occasional time





1 that it does happen that causes the problem.

2 MR. HILBORN: You are suggesting  
3 cheer leaders rather than participants in the game.

4 MR. POLLOCK: Bench strength.

5 THE COMMISSIONER: Well the fact is  
6 that especially where there are strikebreakers, you  
7 look upon those men as coming in as you have said  
8 before, and taking away your positions. You look  
9 upon that - now take your father who had forty-nine  
10 years Mr. Hilborn. He looked on that as an extension  
11 of his home. That is where he lived. As it has  
12 been said before this Commission, human nature finds  
13 it difficult to stand that without expressing itself  
14 violently and it is easily understood. What would  
15 you say if the picket line was done away and you  
16 couldn't employ strikebreakers?

17 MR. McCURDY: That is not a bad idea.  
18 Eliminate the strikebreakers and the picket as well.

19 MR. POLLOCK: Of course he would still  
20 have the opportunity to persuade the original  
21 employees to return to work.

22 THE COMMISSIONER: Yes, of course,  
23 you do and it depends on the solidarity whether or  
24 not you close the plant. If your own group has  
25 that solidarity the doors will not open.

26 MR. HILBORN: I think evidence would  
27 show that pretty near 80% of all violence on picket  
28 lines has occurred after the third party has appeared  
29 on the scene. You see basically/<sup>the</sup>individual member  
30 is told and he feels that we have gone through the



1 natural process by law of negotiations. Fine, now  
2 the Labour Relations Act says I am entitled to go  
3 out on strike and voice my feelings and take a  
4 stand on this. That is fine and dandy, so he gets  
5 out there and in a matter of a week or so he has an  
6 injunction against him and we had a difficult time  
7 when we had injunctions placed against us, which  
8 the company never finally took them/<sup>to</sup>their conclusion,  
9 our people were rather indignant and the labour law  
10 says that I am entitled to be out here on strike  
11 unless another law comes along and says that I can  
12 no longer picket. I am restricted because only three  
13 can picket rather than twelve.

14 THE COMMISSIONER: Yes, because my  
15 neighbour has so far forgot himself as to punch the  
16 face of the employer. That is something that you  
17 don't keep in mind. The injunction is based at least  
18 upon certain evidence of a condition existing that  
19 was illegal. We must have law in the country and it  
20 strikes me that with the inevitableness of what has  
21 taken place in picket lines, if it is feasible we  
22 ought to try to do away with the picket line and its  
23 causation which you say primarily is the employment  
24 of strikebreakers. That is outside men who have no  
25 business there.

26 MR. HILBORN: I think the basic con-  
27 cept of our judicial system in this country is that  
28 you are innocent before proved guilty and in this  
29 particular case you are guilty of certain accusations,  
30 you are guilty of this until such time as the





1 company and I might say this in this one particular  
2 instance, the company had got an injunction  
3 restricting picketing. He came out boldly going  
4 through the picket line and "when are you going to  
5 take us to court on this injunction because we knew  
6 that the thing could be beat in the courts" and "oh,  
7 we don't care if it ever gets there we achieved our  
8 end, we/set out to do the job we want to do and we  
9 don't care if it ever gets to the courts". Now this  
10 is the reason that these things are being used to  
11 circumvent ....

12 THE COMMISSIONER: Why haven't you  
13 taken the pains of demonstrating that to the court  
14 because these original injunctions only last for  
15 about four days and then they must be renewed. Why  
16 don't you show the falsity of the affidavits as you  
17 claim them to be?

18 MR. HILBORN: Unfortunately the  
19 Justice at that time and I can't recall his name,  
20 Donald I think it was, there was a pretty heavy  
21 agenda and I think there were two or three weeks  
22 went by before we could possibly bring it up.

23 THE COMMISSIONER: I don't think we  
24 have had one case suggested to this Commission in  
25 which it has been shown that the affidavits upon  
26 which the preliminary injunction was issued were  
27 false.

28 MR. McCURDY: Well we intend to show  
29 that today, sir.

30 THE COMMISSIONER: Well that is fine,



1 and I hope you can.

2 MR. McCURDY: But you understand, sir,  
3 that in the case of the injunction being issued and  
4 the employer being able to get the strikebreakers  
5 across that line and his operation is working as it  
6 was formerly, what is the point. It is an exercise  
7 in futility to begin establishing and spending all  
8 the money to establish that there might have been  
9 some ....

10 THE COMMISSIONER: All that shows is  
11 this, that with mass picketing in large numbers, you  
12 exercise intimidation against even a strikebreaker,  
13 because you remove that mass and he walks in freely  
14 with the confidence that he doesn't have if you have  
15 a mass.

16 MR. POLLOCK: You say that is an  
17 exercise in futility. It may for that particular  
18 circumstance be, it may be over and all the matters  
19 closed and you may have lost that particular strike,  
20 but it is a step along the road for the next case  
21 and there are going to be other cases and further  
22 strikes and further injunctions granted. You make  
23 illusion to the civil rights movement in the United  
24 States. It didn't start from thousands of people  
25 all belonging and supporting this cause. It started  
26 from a couple of people who were courageous enough  
27 to go in and insist on what they thought were their  
28 rights. They couldn't get served in a restaurant  
29 and they couldn't wait there until they could eat  
30 but they started it. They proceeded through the





1 courts to get their rights established and that is  
2 what the labour movement ought to do in these cases.  
3 If they object as strongly as they have in these  
4 cases and say that the evidence is not fair evidence  
5 or we can establish that it is false, then go through  
6 with it and demonstrate <sup>it</sup> to the courts. The courts  
7 aren't on the scene and the only way that they can  
8 make a decision is through the benefit of testimony,  
9 of yours and the company's. If all they have is the  
10 company's evidence and it is uncontraverted then I  
11 am surprised that there aren't more injunctions  
12 granted. I agree that it is a question of practi-  
13 calities of today, the short term if it is that, then  
14 what you say is correct. But I think we are all a  
15 little bit more interested in the long term than the  
16 short term and if ten years ago or five years ago if  
17 this practice had existed at that time which I have  
18 no doubt it probably did, if in those days cases had  
19 been proceeded with and these facts had been  
20 demonstrated to be false then perhaps this inquiry  
21 wouldn't be here today, perhaps the injunction issue  
22 would be a dead one and employers would say well it  
23 is not easy to get injunctions on poor material now  
24 because the courts are alerted to it and they are  
25 looking at it very much closer and we are helping  
26 them do it by providing evidence on the other side,  
27 instead of after the settlement of the strike or the  
28 defeat of the strike or the agreement one of the  
29 terms is to wipe out all of that, let us get rid of  
30 all that stuff. That is fine for this year and if



1 you have a two-year agreement, for next year. But  
2 when that agreement comes up again you are going to  
3 be back in the same position, and you haven't made  
4 any ground at all. Now I'm not trying to tell you  
5 how to run your business, but it seems that that is  
6 a legitimate function of those who complain that the  
7 laws aren't being administered properly, to  
8 demonstrate and show that one side is not telling  
9 the whole truth, because Supreme Court Judges are  
10 not wizards in determining or conjuring up what  
11 could have happened on the scene, they have to  
12 depend on the parties who were there to tell them.

13 (10 minute recess)

14 MR. POLLOCK: Now if we could ask you  
15 to put your construction industry hats back on again  
16 and if we could talk for a few minutes about the  
17 very thorny problem of jurisdictional disputes. It  
18 is very graphically illustrated in the Appendix to  
19 your Brief by means of those abortive applications  
20 to the then Jurisdictional Disputes Commission  
21 resulting from the decision of the then Chief Justice  
22 McRuer in the Canadian Pittsburgh Industries case,  
23 pointing out that employees meant employees of the  
24 particular contractor at the time and didn't relate  
25 to those who in the labour movement had exercised  
26 their claim for jurisdiction who were not present  
27 and found on the job site. Your recommendation is  
28 and has been supported by Judge Lang and Mr.  
29 Goldenberg, changed the term from "employees" to  
30 "persons" so that everyone who is a worker in the





1       disputed area would have an opportunity to claim  
2       that jurisdiction. Does that state your position?

3                   MR. McCURDY: Yes, sir.

4                   MR. POLLOCK: Is there sufficient  
5       cohesion between the competing groups of craft  
6       unions on these disputed areas of jurisdiction to  
7       support this type of procedure? Would people be  
8       satisfied with a decision of a jurisdictional  
9       disputes tribunal set up by the government?

10                  MR. McCURDY: They, sir, had no  
11       choice. They were on interim orders handed down by  
12       the Jurisdiction Disputes Commission here in the  
13       province of Ontario and mind you we resisted with  
14       everything we could sum against the bringing of this  
15       authority to Ontario because we prefer using the  
16       established authority with years and years of  
17       experience with the national joint board. We always  
18       felt strongly that we maybe should have Canadian  
19       representation there, but to establish a new authority  
20       here in the province of Ontario we were apprehensive  
21       about the workability of that in the province. But  
22       once they established, it didn't make any difference  
23       what the building trades or what the respective  
24       unions involved in disputes felt about the question.  
25       The decision was handed down and everyone must abide  
26       by that decision. The problem was that we were using  
27       that Commission more than anyone else, but we dis-  
28       covered that good heavens there are so many cases  
29       and I think twenty-two in the year that we have here,  
30       and there were more in other years as well, where we



1 were unable to get a decision so it was pointless  
2 really in our view to continue this authority which  
3 was established really on the recommendation and the  
4 insistence of management and the government.

5 MR. POLLOCK: The reason you were  
6 unable to get a decision was because you at the  
7 particular time of application didn't have any  
8 employees on the job at the time.

9 MR. McCURDY: That is correct. In  
10 many cases, sir, the employer would arrange this  
11 very conveniently that we wouldn't have anyone on  
12 the job. At the Lakehead I believe one of these  
13 cases is cited here and Mr. Brodack knows of this  
14 case where carpenters/<sup>worked</sup>on the construction of this  
15 building. They got down to the finishing part of  
16 the building so all of the carpenters were off and  
17 they brought labourers on to install the plywood, and  
18 this is a substitutable part of our work and the  
19 labourers were able to carry that work on. But the  
20 employer was getting the heaviest work done cheaper  
21 in this stage than he would if carpenters did it.  
22 It was a sizeable amount of work I believe in that  
23 case but you see the motivation here was the cheaper  
24 labour. They weren't interested in the authority  
25 functioning at that time. They were interested  
26 strictly in that cheap labour and it cannot work this  
27 way.

28 MR. POLLOCK: The classical case in  
29 this area being brought before the Commission on  
30 repeated occasion is the Toronto-Dominion Bank





1 jurisdictional problems, where we had a decision of  
2 the Labour Relations Board at that time.

3 MR. McCURDY: It was the Commission  
4 that was involved there.

5 MR. POLLOCK: The Commission decided  
6 to allocate the work to certain group and the joint  
7 board in Washington decided to allocate the work, no  
8 I guess it was the Commission who decided to give the  
9 work on a 60/40 basis or something like that to the  
10 union and that the joint board in Washington said no  
11 give it all to the sheetmetal workers. Then it was  
12 a question of who had jurisdiction to do what and  
13 which order are we to follow, and it resulted in a  
14 work stoppage.

15 MR. McCURDY: Yes, but in this case  
16 and this happens to be the only case that we know  
17 of where an interim order was issued by that  
18 Commission and circumvented as clearly as it was in  
19 this case. Now the union removing their employees  
20 from the project completely, they were hanging on  
21 the decision of the past practice rather of the  
22 National Joint Board. But look to all the other  
23 cases they were certainly not trying to circumvent.  
24 It was an interim order and they accepted that order.

25 MR. POLLOCK: In establishing this  
26 type of Commission in Canada and cutting it from  
27 whole cloth and without having any background or  
28 historical resources to call upon to make these  
29 decisions, your position is that they could be  
30 eliminated with experience by establishing policies.



1 If you had the absolute jurisdiction in Ontario and  
2 no references anywhere else, then you could develop  
3 the same background of experience in the  
4 province for resolution of these matters, assuming  
5 that the jurisdiction was broadened to include  
6 persons of all competing unions. But we have had  
7 people come before us from craft unions saying that  
8 is fine and we are happy so long as they give us our  
9 traditional jurisdiction, and their traditional  
10 jurisdiction and your traditional jurisdiction and  
11 everybody else's traditional jurisdiction are over-  
12 lapped, and it is in those overlapping areas where  
13 you can have three or four people who can justify  
14 from history that we have done this work or it has  
15 replaced a function that we used to do. How do you  
16 decide those things unless you negotiate the  
17 questions?

18 MR. McCURDY: Well these are thorny  
19 problems here in Ontario as well as in Washington,  
20 D.C., where they have been doing this since I imagine  
21 around 1910 or thereabouts. But we might have over-  
22 come these problems, but our real complaint here was  
23 we were prepared to do everything possible to make  
24 certain that this system and this procedure is going  
25 to be workable here. But I think we have lost the  
26 ball now. Ontario has lost the ball because they  
27 refused to accept the advice of Justice McRuer. They  
28 weren't interested in what Mr. Goldenberg had to say  
29 and they weren't interested in the eminent Judge  
30 Lang from Stratford. They weren't interested in what





1 anyone had to say.

2 THE COMMISSIONER: Who do you mean  
3 "they"?

4 MR. McCURDY: The Ontario Government  
5 and the employers. The employers did not want the  
6 change either.

7 THE COMMISSIONER: You mean the change  
8 of deciding tribunal?

9 MR. McCURDY: No I'm sorry, it was  
10 the change of word word in Section 66, sub-section (1)  
11 of the Act.

12 THE COMMISSIONER: Now let's take that  
13 one word. I may be misunderstanding this and if I am  
14 you correct me. The effect of changing that word  
15 would mean this, that the original contractors or  
16 sub-contractors will have to be given a jurisdiction  
17 only in accordance with an award which may not have  
18 at that time been given. That is to say I make a  
19 contract with you for the installation of a ceiling  
20 and one thing and another or whatever it may be, and  
21 there are two sections of that about which there may  
22 be a quarrel in jurisdiction. But it hasn't been  
23 decided and I give it to 'A' who claims that it is  
24 his and 'B' says it isn't. I make a contract to that  
25 affect. Then along comes a decision after 'B' has  
26 made a claim, who isn't connected with the work at  
27 all. He says 'that is my work and you must make a new  
28 contract with me,' so that you will have two contracts  
29 for the same kind of work which involves the sub-  
30 contractor in legal difficulty. Now is that a proper



1 conception?

2 MR. McCURDY: No that isn't right, sir.

3 THE COMMISSIONER: Then please  
4 straighten it out.

5 MR. McCURDY: We will use the hypo-  
6 thetical case of where we are doing the suspended  
7 ceiling here, and the carpenters and lathers have  
8 disagreed for a great many years over the suspended  
9 ceiling, who does which part of that work. So the  
10 lathers are on a sub-contract arrangement and they  
11 are using their members to perform the work. The work  
12 is assigned to them.

13 THE COMMISSIONER: And I have given the  
14 contract to them to do it.

15 MR. McCURDY: It is the employer's  
16 right to assign that work and we don't disagree with  
17 this. He assigns the work to the lather and we are  
18 removed from the job, we are over at another job site.

19 THE COMMISSIONER: But he hasn't made  
20 an arrangement with the carpenters at all.

21 MR. McCURDY: It doesn't require a  
22 contract, sir, in this case. A contract is not  
23 involved. But where he is performing the work, then  
24 we say that we have the right to go to that Board  
25 and the Board must rule as to who actually has the  
26 right and they have ruled this way in hundreds of  
27 cases.

28 THE COMMISSIONER: Well now just a  
29 moment. In that case the lathers and the carpenters  
30 are both on the job.





1 MR. McCURDY: This is clear. If they  
2 are both on the jobs there are no problems.

3 THE COMMISSIONER: But<sup>it</sup>/is where the  
4 carpenters are not employed at all on that job at  
5 this particular time and they are outside and they  
6 are unemployed and they say "we have the right to  
7 have given to us the contract to do that." Now isn't  
8 it that?

9 MR. McCURDY: No, it's not quite like  
10 that, sir. It isn't a question that they just come  
11 off the street and we haven't had any cases like  
12 this.

13 THE COMMISSIONER: Well that is why  
14 you want to change from "employee" to "persons"?

15 MR. McCURDY: We want it changed  
16 from "employees" to "persons" so that the person  
17 contending that the work belongs to them will have  
18 an opportunity to go to that Board and have a  
19 decision.

20 THE COMMISSIONER: Well the basis of  
21 your objection by Chief Justice McRuer and Judge  
22 Lang was this, that the statutory provision con-  
23 templates that you have a conflict of jurisdiction  
24 between two men who are today at work at that job.  
25 And if one isn't, it is outside, then the statute  
26 doesn't apply. In other words an outside man is not  
27 entitled to say you've got to give me the contract  
28 to do some of that plastering, or whatever it may be,  
29 although at the moment it is contracted to be given  
30 to another person.



1 MR. McCURDY: Yes in a way this is  
2 right. But Justice Grant also ruled that extended  
3 the McRuer decision and I haven't mentioned this in  
4 the Brief. But he also extended this to say that  
5 if a carpenter is working at another location but  
6 still for that same company, that the case can be  
7 heard by the Commission.

8 THE COMMISSIONER: While he is working  
9 in the service of that employer, at the same time as  
10 his contestant is working. They are together at work  
11 for that employer.

12 MR. McCURDY: That is right but here  
13 is the complaint to begin with, it was that from the  
14 employer, why should we send a request for a decision  
15 to Washington, D.C. These fellows make the decision  
16 when they get ready to make it and they take too long  
17 to get a decision back to us, and in some cases they  
18 won't even decide, but here we have the same  
19 situation in Ontario and it is worse really, greatly  
20 worse.

21 THE COMMISSIONER: Well I didn't  
22 touch the question of which tribunal would make the  
23 decision. All I'm suggesting is that no decision had been  
24 made which was reflected by both parties and one is  
25 outside and/<sup>he</sup>says "you must give that contract to me  
26 although I have no contract now."

27 MR. POLLOCK: Well isn't your problem  
28 this, that the contracts that you work under and the  
29 contracts that the lathers work under contain pro-  
30 visions similar to the one that is found in this





1 arbitration case involving Johns-Manville and the  
2 United Brotherhood in your Appendix which says "it  
3 is understood and agreed that no work coming under  
4 the recognized jurisdiction of the United Brotherhood  
5 of Carpenters and Joiners of America shall be per-  
6 formed on the job site by anyone who is not a  
7 member in good standing of the said Union" and that  
8 the lathers probably have the same thing. Then the  
9 question is you are contracted to do the work that  
10 comes within your jurisdiction. They are contracted  
11 to do the work to come within their jurisdictions.  
12 Now when some work arises you have to say is that  
13 work that comes within our jurisdiction and you say  
14 yes and the lathers say it is work that comes within  
15 our jurisdiction and they have to say yes because  
16 traditionally that is their position. You've both  
17 got contracts that cover.

18 MR. McCURDY: Right.

19 MR. POLLOCK: Now wait a minute. At  
20 this stage you have done part of your work and the  
21 ceiling is delayed and the other carpentry work is  
22 finished and you go away. But you say that when new  
23 carpentry work comes in on the ceiling, it revives  
24 your position and you want to come back in and say  
25 "this is under our contract and this is our work." Is  
26 that right?

27 MR. McCURDY: That is right, yes.

28 THE COMMISSIONER: I can understand  
29 a difficulty where no decision has been made as to  
30 the definition of "jurisdiction" but to say on the



1 first occasion before one is made that the  
2 contractor or the sub-contractor making an agreement  
3 with men to do the whole 'A' and 'B' work, is going  
4 to be interfered with afterwards by a decision that  
5 was made subsequently to say that "oh no you've got  
6 to cut out 'B' and give it to somebody else who isn't  
7 presently on the job."

8 MR. McCURDY: They have done this a  
9 number of times, sir. In the case of where 'A' and  
10 'B' trades are on the job and 'A' has been assigned  
11 the work, the Commission has decided that 'A' should  
12 not have been assigned the work, the assignment was  
13 improper so then 'B' comes on and takes over the  
14 work.

15 THE COMMISSIONER: Well if the contract  
16 with 'A' had included that work so that it binds the  
17 men making the contract, it should not be interfered  
18 with by a subsequent decision on the jurisdictional  
19 point.

20 MR. McCURDY: But mind you, sir, the  
21 collective agreements and I assume this is what you  
22 refer to, the collective agreements very seldom and  
23 I don't know of any cases of where we have the total  
24 jurisdiction of a trade spelled out in the collective  
25 agreement.

26 MR. POLLOCK: Well that is the  
27 difficulty because you have two contracts that overlap  
28 and that in every case will overlap where there is a  
29 disputed jurisdiction, and you really are calling upon  
30 the Jurisdictional Disputes Commission to interpret





1 that contract, saying what is work coming under the  
2 recognized jurisdiction of the particular group.

3 MR. McCURDY: Washington does this.

4 MR. HILBORN: They don't interpret  
5 the agreement though.

6 MR. POLLOCK: I know they don't but  
7 they're trying to give meaning to what comes under  
8 the recognized jurisdiction of the carpenters and  
9 joiners. If you the carpenters could come to an  
10 agreement with the lathers and anybody else that you  
11 have and say "well, all right this is our work and we  
12 will put the tiles in place and you suspend the  
13 metal parts" or whatever arrangements you have then  
14 that would be very good and everybody would be happy  
15 I assume, if everybody got some work out of it and  
16 if you arrive at that convenience then it could be  
17 spelled out instead of saying it is understood that  
18 everything coming under the recognized jurisdiction  
19 of, you could say "particularly in ceilings, we put  
20 the tiles in."

21 MR. McCURDY: But you see as Mr.  
22 Hilborn has mentioned to you the collective agreement  
23 in itself has no relevance here at all as far as the  
24 jurisdiction is concerned. The Disputes Commission  
25 rules generally on the agreements between the two  
26 internationals and the agreements of records and past  
27 practices and so on. But mind you Washington, D.C.  
28 gets around this, sir, they issue decisions in these  
29 cases, where we are still reticent <sup>to</sup> /becoming involved  
30 in making a decision in all cases.



1 THE COMMISSIONER: Well I have no  
2 doubt that this conflict could be provided for in  
3 the contract by saying it would be subject, and the  
4 distribution of work or the assignment of work to  
5 any holding by any arbitral tribunal or any  
6 recognized tribunal that the jurisdiction belongs  
7 to one or two sub-contractors. They could do that,  
8 but do they?

9 MR. HILBORN: In this instance then  
10 you are throwing the trouble of the Commission into  
11 the negotiation. Now you have two trades negotiating  
12 with one employer and both are saying that this is  
13 our particular work. Now you come to an impasse here  
14 where everybody just won't move and therefore the  
15 matter has got to be decided by the Commission.

16 MR. POLLOCK: Well you are only  
17 postponing it. You don't have to have a super-active  
18 imagination that you're going to have conflict in  
19 this particular problem that we are talking about,  
20 the ceiling where everybody knows there are going  
21 to be jurisdictional problems because there always  
22 have been.

23 MR. HAGUE: There is also another  
24 area that hasn't been mentioned and that is area  
25 practice and I'm not going to cover a great  
26 geographical area but you can have established in  
27 Toronto for instance, but down in the Niagara Peninsula  
28 or up in Port Arthur it is an entirely different set  
29 of circumstances and a different working arrangement.

30 MR. POLLOCK: All right, then put





1 that in your contract and spell it out in detail as  
2 much as you can in those areas which have caused  
3 jurisdictional problems. I suggest to you the  
4 difficulty<sup>is</sup>/that you can't get agreement not between  
5 the employer and the union but between the two  
6 unions.

7 MR. HAGUE: Then you have it spelled  
8 out in your agreement. Take my own area for instance  
9 and it happens to be a Toronto contractor that comes  
10 into your area, then he actually assigns it  
11 incorrectly.

12 MR. POLLOCK: Then he is wrong. He  
13 has to abide by the difference in agreement to the  
14 area and he becomes a party to the agreement. Then  
15 he has to follow what is set out in the agreement.  
16 I can appreciate the difficult that you are going to  
17 have.

18 MR. HAGUE: Well I wish it was that  
19 easy.

20 MR. POLLOCK: I think the difficulty  
21 is that you can't come together between the two  
22 disputing jurisdictions, that is the two unions or the  
23 three or in some cases four, and iron that out. They  
24 are just as jealous of their jurisdiction as you are  
25 and you say "well all right we'll just put in these  
26 broad words and let's get the agreement signed" and  
27 then when the thing arises which it inevitably will  
28 you say we will refer to somebody to decide.

29 THE COMMISSIONER: In some cases they  
30 won't accept the holding of a tribunal which has been



1 agreed upon. How do you view that? You and I agree  
2 that we will abide by the decision of 'B'. 'B' makes  
3 the decision and it is in your favour and I refuse to  
4 accept it.

5 MR. McCURDY: Sir, I don't know of any  
6 unions involved in the disputes that have been decided  
7 upon by the Commission that refused to accept the  
8 decision, except for the one, sir, the  
9 /Toronto-Dominion Bank.

10 THE COMMISSIONER: Well there is  
11 support.

12 MR. BRODACK: I would like to suggest  
13 that it is an impossible situation to write into any  
14 collective agreement all the work that probably will  
15 come up during the course of that agreement. It is  
16 an impossible situation because there are new  
17 techniques and new materials and all of these are  
18 coming up and there has to be some procedure set up  
19 where a ruling as to jurisdiction or who properly  
20 should be doing this work should be set out. I  
21 suggest to you that it is impossible to write into a  
22 collective agreement to clearly indicate what exactly  
23 the work is covered by that collective agreement.

24 MR. POLLOCK: You can't look into the  
25 future, I will agree to it, but you can certainly look  
26 into the past.

27 MR. BRODACK: But we have established  
28 this that it is impossible to write into the collec-  
29 tive agreement all the work that this agreement  
30 covers, then something else must be done.

THE COMMISSIONER: Then why not have





1 this. In the first instance the man whose building  
2 is being put up, he contracts with a person to do  
3 certain work. Now that work can never become the  
4 subject of a decision by the arbitral tribunal.  
5 There are several unions claiming but he assigns it  
6 to one which has an arguable case. Now he doesn't  
7 know what the decision is going to be next week but  
8 the moment he assigns that to one, that becomes part  
9 of the contract really and I suppose it is expressly  
10 part of the contract. Why put him in difficulty,  
11 because he has exercised his judgment upon a question  
12 that it may possibly afterwards, ex post facto to use a  
13 legal term, really create an obligation on him which  
14 is going to involve him in difficulty because he has  
15 made a contract for that specific work.

16 MR. BRODAK: I give you a specific  
17 situation, sir, where let us say we hold contracts  
18 covering labourers work and there are perhaps sub-  
19 contractors that have labourers on their payroll and  
20 have no carpenters at all. Now if the owner lets the  
21 contract out to this sub-contractor to do certain  
22 work that we even recognize as labourers' work but  
23 included in there is the building of basements and  
24 forms and setting joists and all this sort of thing.  
25 So this labourer contractor takes the contract on and  
26 you are suggesting to me then that we have no right  
27 to claim this work because this has been issued to a  
28 sub-contractor.

29 THE COMMISSIONER: I don't suggest  
30 that at all.



1 MR. BRODACK: I am suggesting there  
2 should be a procedure set up where if certain work  
3 was contracted to a sub-contractor that included  
4 brick laying basically or sheetmetal or electrical  
5 or labourer work or any other kind of work, and  
6 that during the performance of this work a certain  
7 trade claims that this work properly belongs to  
8 them, that there should be <sup>a</sup> hearing or a procedure  
9 set up where both unions involved could state their  
10 case and be heard and on the basis of their evidence  
11 in claims that they make, a decision be given which  
12 would be binding on both. Now this is what we are  
13 asking for and under Section 66 (1) as it has been  
14 or is, this is not provided for because unless I -  
15 let us say this involves a contractor that is putting  
16 up bricks.

17 THE COMMISSIONER: But at the present  
18 time you have dozens of jurisdictional matters that  
19 are settled. You don't confuse a carpenter's work  
20 which requires some skill with a labourer's work  
21 which requires the ability to use a pick and shovel.  
22 Those differences are recognized.

23 MR. BRODACK: Well in some areas that  
24 are mentioned here there are some areas that are  
25 clearly defined and there are some other things  
26 that are not clearly defined and this is where some  
27 procedure must be set up so that these parties can  
28 be heard and decisions given.

29 THE COMMISSIONER: But you can't  
30 postpone making a contract until a decision is made





1 in Washington. He wants to finish this building.  
2 'A' union says that is our work and all right I'll  
3 give you the contract to do that work but then a  
4 month later in Washington it is decided that 'A'  
5 hasn't that right at all, it belongs to 'X'.

6 MR. POLLOCK: Some of these things  
7 are settled much quicker than that. There are some  
8 cases that involve delays but many of them are  
9 settled in twenty-four hours by telegrams back and  
10 forth.

11 MR. McCURDY: That is true. Now I am  
12 certain you have read Mr. Goldenberg's report but I  
13 think it is important just to refer to page 53 where  
14 he talks about, and mind you he gave some very special  
15 treatment to jurisdictional disputes. Mr. David Lewis  
16 and I were representatives at that time and we talked  
17 considerably about jurisdictional disputes and here  
18 is what he said. "Considering the balance of  
19 convenience in relation to the end which the Act  
20 seeks I recommend that the word "persons" and he's  
21 a bit confused on the word though, be substituted  
22 for the word "employees" in Section 66 (1) of the  
23 Labour Relations Act so that a Jurisdiction Dispute

24 Commission may have jurisdiction to  
25 review complaints from unions whether or not they are  
26 members of the employers organization concerned".

27 Now believe<sup>me</sup>/there are pages where he talked with Mr.  
28 Pigott of the Ontario General Contractors Association  
29 and he spoke to us and he made a very fair judgment  
30 I think of what should be done about it.



1 THE COMMISSIONER: But take the case  
2 that is bothering me. The contract is made with 'X'  
3 to do 'A' work and that includes work that when it is  
4 started, is claimed by an outside agent or union  
5 altogether, that isn't on the job. They say "that is  
6 work we ought to have and you must make a new  
7 contract with us". He has already made a contract  
8 with a man who also claims it and at that point no  
9 decision has ever been made. It is a disputed case  
10 and something new has occurred. Then it rests in  
11 judgment which may be made at any time. But the  
12 contract is made and the contract is with 'X' or 'A'  
13 or whatever you call him and then 'B' comes in and  
14 says "you must modify that contract and give me one".

15 MR. McCURDY: But sir, his contract  
16 does not spell out in detail all of his jurisdiction.

17 THE COMMISSIONER: Well let us assume  
18 that it does.

19 MR. McCURDY: All right we will  
20 assume that it does, sir. In our industry we have  
21 through sound technological change and new materials  
22 and new techniques, we are dealing with new materials  
23 and new ideas all the time in the construction  
24 industry. So where this wall is going to be con-  
25 structed here as is really the case and we have used  
26 2x4 studs traditionally and we are going to use the  
27 metal, they have made these decisions over in  
28 Washington, D.C.

29 THE COMMISSIONER: But I am talking  
30 of a situation where they haven't done that. It is





1 new and something that occurs for the first time  
2 and they have not yet made a decision but a contract  
3 is made and there is no indication that there be any  
4 dispute. The contract is made with a certain person.  
5 Then after that contract is made and he goes to work  
6 and he is arrested by the claim of an outside union  
7 and that is ours. How do you know, that because we  
8 claim it. All right we will go to a tribunal to  
9 decide and the tribunal does decide that it belongs  
10 to this outside man. So that the contract is made  
11 and in so far claims to be one that must be changed.  
12 Now the man with whom that contract is made is not  
13 going to change it voluntarily but he says "you've  
14 contracted with me and I am to do that work and I'm  
15 going to claim that right". But after that when the  
16 decision is made then the contractor must take the  
17 chance. Here is a decision that must be made and  
18 he must award that to the outside man and that can  
19 easily be done. But in the first instance it would  
20 absurd I think to say that he<sup>has</sup> got to anticipate.

21 MR. McCURDY: Well we don't leave the  
22 situation to the employer and the two unions or the  
23 two unions become involved in a dispute and they are  
24 fighting, and you have said - it has been said in the  
25 United States and also Canada all right they can't  
26 settle their differences so we must have this tribunal.  
27 So the three parties, the two contesting unions plus  
28 the employer they can't settle it so you must accept  
29 that tribunal.

30 THE COMMISSIONER: All I'm saying is



1 that before the tribunal has acted and at the time  
2 that judgment must be formed and the contract must  
3 be given to one of them he gives it to the person  
4 who is afterwards declared to be disentitled to that,  
5 why should you attempt to interfere with an existing  
6 contract where the question was done before the  
7 decision had been made. You want to have it retro-  
8 active, to deal with the contract that might have  
9 been made three months before.

10 MR. HAGUE: What we are saying, sir,  
11 is this. You could take this room for instance  
12 where you have a door that has to be hung and we  
13 have a ceiling and we have a floor, and I as the  
14 contractor have a group of employees and the  
15 carpenters' union comes along and they see a person  
16 hanging that door and they say "that is carpentry  
17 work" and I say "no, all I've got in my employ are  
18 lathers," they are all lathers or all bricklayers for  
19 that matter to make it naturally a little bit more  
20 ludicrous. But I can call them whatever I choose  
21 except carpenters. Our industry cannot claim that  
22 is their work.

23 THE COMMISSIONER: But you do have  
24 a dispute with two parties claiming the same work.

25 MR. HAGUE: But under the Act at the  
26 moment we cannot go to the Labour Relations Board  
27 here or anywhere else and say that this is our work  
28 when we know that it is and everybody else knows  
29 that it is but I say I'm sorry but I've got none of  
30 your employees.





1 THE COMMISSIONER: But once you know  
2 the distinction then the case is clear. It's a point of  
3 where you don't know who to allocate it to.

4 MR. HILBORN: Well take a simple case  
5 of getting it down to basic elementary matters. In a  
6 case of a room like this the general contractor who  
7 built this building was going to build a desk and  
8 there were no carpenters on the trade at all. And  
9 there were a bunch of labourers and we'll take a  
10 bricklayer and I don't care who it may be. He  
11 assigns the work to build that desk. Now in your  
12 estimation whose jurisdiction would it be?

13 THE COMMISSIONER: I would say  
14 carpenters clearly because that is recognized every-  
15 where.

16 MR. HILBORN: Yes but if the employer  
17 assigns that to a bricklayer to do it and there were  
18 no carpenters on the employment at that particular  
19 time that contractor is within his rights and we  
20 have no recourse.

21 THE COMMISSIONER: But that is not the  
22 case I'm putting to you.

23 MR. POLLOCK: We're not disputing the  
24 question of persons or employees.

25 MR. HAGUE: I'm following the  
26 Commissioner. He's talking about the contract as  
27 such.

28 MR. McCURDY: Well we were talking  
29 about <sup>the</sup> mechanics of it but I think the point we are  
30 attempting to make here, sir, is that it has been



1 suggested and dating back to 1957 when the select  
2 committee dealt with labour relations in the  
3 province of Ontario and they pointed the finger at  
4 the labour movement and they said "you are  
5 irresponsible and you cannot settle your difficulties  
6 and there must be an authority here in the province  
7 of Ontario". We said "no, we don't want this authority  
8 here" but they did establish that authority and after  
9 the authority was established here we had the  
10 employers in the province of Ontario, those ones who  
11 insisted that we have this authority and who wouldn't  
12 allow it to be workable, they wouldn't allow this  
13 change to be made, they made representations to the  
14 Government to make sure it wouldn't be changed, the  
15 Government took the immovable position on this  
16 situation, so we have all along said that we must  
17 accept some authority to resolve jurisdiction  
18 disputes. At Washington we thought it was good so  
19 we bring it to Ontario and we were prepared to accept  
20 this, but the employer and Government are not  
21 prepared to establish a decent authority and to  
22 accept that authority in dealing with jurisdictional  
23 problems.

24 THE COMMISSIONER: Well it does apply  
25 where both unions are on the same job, and there has  
26 been a determination before.

27 MR. BRODACK: Not on the same job but  
28 the same employer on the same job. Now the change is  
29 where we are not on the same job with the same employer.

30 THE COMMISSIONER: Apparently it isn't





1 helped by one Judge that it extends to that too.

2 MR. BRODACK: But I can see chaos here,  
3 sir, where we are going along with the suggestion that  
4 you made, to define what practice has been established  
5 and what is new and I can see where this would lead to  
6 much confusion. Where I am a bricklaying contractor  
7 and as part of my contract I include putting <sup>up</sup> all the  
8 walls and install all the windows and cover in the  
9 roof too. Certainly the bricklayers union will go  
10 ahead and claim that maybe the windows is theirs.  
11 Every union is going to claim all work is theirs and  
12 this is why we'll have jurisdictional disputes and  
13 to suggest that because it is a bricklaying contractor  
14 that there is no procedure here by which the trade that  
15 through practice is recognized as having the trade to  
16 that work where they would have some sort of authority  
17 to go to get a declaration for proper assignment,  
18 I think this is necessary.

19 THE COMMISSIONER: Well now, you would  
20 suggest that I would employ bricklayers to make a very  
21 valuable cabinet?

22 MR. BRODACK: No I am suggesting that  
23 bricklayers claim much of the work that we are also  
24 claiming including the installation of windows and  
25 many other things and most of them will claim all that  
26 they can.

27 MR. POLLOCK: Well are you saying that  
28 this jurisdictional problem is insurmountable so far  
29 as the trade unions are concerned, in cutting down  
30 their own jurisdiction and giving up some jurisdiction



1 in exchange for other jurisdictions?

2 MR. BRODACK: Well our general office  
3 at the international level tries to do this, where  
4 they meet up and in fact they have what they call a  
5 president's commissions, to sit down and meet and if  
6 there is anything common as far as work practices are  
7 concerned that they can agree, ~~on~~ ~~by~~ they sign an under-  
8 standing to this effect and this is sent out to all  
9 the local unions of both organizations and this  
10 governs the jurisdiction of that particular work.  
11 But you see to establish such authority on a national  
12 or international level, this creates a dissention in  
13 various areas also because the practice they have in  
14 California is not necessarily the practice that they  
15 have in Ontario, or what they do in Ontario is not  
16 necessarily the practice in British Columbia.

17 MR. POLLOCK: Well why don't you do  
18 it on an Ontario basis?

19 MR. BRODACK: This is what has been  
20 suggested where we have this Commission to deal with  
21 these matters, but they didn't see contractors and  
22 the Government went along with them to amend that  
23 so that it would work in the service purpose.

24 MR. POLLOCK: But apart from the  
25 Jurisdictional Disputes Commission, why can't and  
26 it is a question and I think I know the answer but  
27 I am asking it anyway. Why can't the carpenters and  
28 the bricklayers and the cement masons and the paper  
29 hangers and all these people get together in Ontario  
30 and sit down and say here are the different things





1 that go into a building, now let us divide it up.  
2 So you say OK we'll give you the bricklayers the  
3 windows, you can have the windows but we want some-  
4 thing else that has been disputed jurisdiction, and  
5 you negotiate.

6 MR. BRODACK: Well I'll show you an  
7 example why that can't be so. If they are putting  
8 up a building over there and they say to the brick-  
9 layers and they're putting up the wall and they see  
10 the erection of scaffold. If those scaffolds are  
11 self-supporting scaffolds I think you know what I  
12 mean. Between the bricklayers and us this is  
13 recognized as being the work of the carpenter.  
14 But the scaffolding is the kind that they lift by  
15 themselves as they go along the bricklayer puts up  
16 that one so we can't say ....

17 MR. POLLOCK: But you can agree on  
18 that, you can spell that out and say the standing  
19 scaffolds are ours and the swinging scaffolds are  
20 theirs.

21 MR. BRODACK: Well next year somebody  
22 is going to invent another scaffold.

23 MR. POLLOCK: Then you will have to  
24 have another meeting then and decide that.

25 MR. McCURDY: May I say this Mr.  
26 Pollock in answer to your question, that the inter-  
27 national unions do a considerable amount of work in  
28 this direction of signing agreements on the inter-  
29 national level. As a matter of fact we have standing  
30 committees appointed by our general president and



1 Canadians who serve on those committees also, and  
2 they are talking constantly about solving the problems  
3 in these grey areas and sometimes they aren't able to  
4 settle them so when we have a contract we must refer  
5 to the tribunal to help us resolve those problems.  
6 But good heavens there are hundreds of these agreements  
7 existing, existing on an international level and  
8 existing even on a local level or provincial and on  
9 a national level in this country. There are many of  
10 them.

11 MR. POLLOCK: Of course all the  
12 suggestions are going to be wiped out when the CUPE  
13 suggestions are brought in.

14 MR. McCURDY: We asked that question  
15 this morning if this was going to be our union.

16 MR. POLLOCK: Well everybody wants  
17 that, everybody is agreed in principle. It is a  
18 question of interests.

19 MR. McCURDY: One of the gentlemen  
20 in the group here has suggested that I haven't met  
21 your understanding, sir, as far as the contract, the  
22 point on contract is concerned. He sights this case  
23 of where the sub-contractor who may be a lather sub-  
24 contractor - he may employ lathers and he has his  
25 collective agreement, and where you go to the  
26 Commission or where you go to Washington and they  
27 decide that the work is improperly assigned and the  
28 work is then given to the carpenter, the sub-  
29 contractor does not give up his contract.

30 THE COMMISSIONER: I'm not saying that,





1 I'm saying that if he respects that decision of the  
2 tribunal he will modify it.

3 MR. McCURDY: I understand now.

4 MR. POLLOCK: The only other point on  
5 this matter, I think one of the suggestions that it  
6 be made for returning the jurisdictional decision to  
7 Ontario to a tribunal established by the Government  
8 is to make it enforceable, so that you don't run  
9 into that particular type of situation, where one  
10 union who gets a decision of the joint board and may  
11 not be happy with it. You say well we don't care  
12 you can't enforce that and we will take whatever  
13 action we want to. But that is an irresponsible  
14 action but you can't do anything about it. You can't  
15 enforce the judgment or decision of the joint board  
16 in Ontario. So they say let us get some machinery  
17 to have an enforceable judgment.

18 MR. HAGUE: Until the Act is changed  
19 we can't do anything. That is the position we are  
20 placed in and our organization finds itself placed  
21 in that and until the Act is changed we cannot do  
22 anything. Because if a company says well I don't  
23 have any carpenters even though they are doing  
24 carpentry work.

25 THE COMMISSIONER: Well the Act is  
26 effective if you have employed carpenters and lathers  
27 and if there's a dispute the settlement can be made  
28 within the terms of the statute.

29 MR. HAGUE: But the employer says I  
30 don't have any carpenters even though they are doing



1     carpentry work.

2                   THE COMMISSIONER: That is true, where  
3     you don't have any carpenters the difficulty arises.

4                   MR. BRODACK: I would like to mention  
5     one other point, sir, where it was stated that there  
6     was a ruling by the Commission and a ruling by  
7     Washington and they were very different and there was  
8     conflict. Now that only happened once because the  
9     international joint board for settling jurisdictional  
10    disputes in Washington now will not give a decision  
11    affecting work in Canada or a dispute between  
12    Canadian locals unless both trades sign statements  
13    that they will agree to be bound by that decision,  
14    because the joint board has no intention of inter-  
15    fering with the laws of the land. Now that clears  
16    up that point.

17                  MR. POLLOCK: Well it is the old story  
18    if you waited until you had a fire to buy fire  
19    insurance you wouldn't be very smart.

20                  MR. McCURDY: Before you move from this  
21    point, sir, may I make it patently clear that we are  
22    not asking for establishment of the authority in  
23    Ontario now because it is our opinion that we have  
24    missed the boat by not changing. We have had all  
25    these years to make the change and we have failed to  
26    do so. But we have raised the jurisdiction question  
27    here to point out that this has precipitated wildcat  
28    strikes and much unrest and difficulty in the industry  
29    in the province of Ontario.

30                  MR. POLLOCK: We understand that





1 position.

2 THE COMMISSIONER: I suppose there is  
3 also the question of what could in a sense be  
4 described as local monopoly. That is to say, you  
5 have a section of the province and that has become by  
6 agreement more or less limited to work within that  
7 section by people who live in that section. Your  
8 agreements really bring about that condition so that  
9 if I am in Toronto and I want to go to Windsor to  
10 work I've got to go in the first place to work there,  
11 to get the permission of the local organization. How  
12 far is that effective in the province?

13 MR. POLLOCK: It is a union transfer.  
14 An employee who works as a member in Toronto and  
15 decides that he wants to get a job somewhere else,  
16 in London, and he goes down to London and he can't  
17 work there until the people in London say to him that  
18 "we will let you work here."

19 MR. BRODACK: Our constitution expressly  
20 and clearly provides that if I want a clearance card  
21 from my local all I have to do is get paid up for all  
22 the monies that I owe them, that is pay up my dues  
23 and assessments whatever they may be for the current  
24 month and when I ask for a clearance card that must  
25 be issued to me. And with that clearance card I can  
26 go to any local on the North American continent and  
27 present or by presenting that clearance card there  
28 and identifying myself, that local is required by  
29 constitution to accept my clearance card.

30 MR. McCURDY: But the individual would



1 be less than realistic if he expected to move from  
2 one local area to another area and go into the local  
3 office and register as unemployed and clear into the  
4 area and be sent out immediately. They have a list  
5 from which they refer people out to their jobs. But  
6 the man can move if he wishes.

7 THE COMMISSIONER: Yes he can move  
8 and get a card, but in many cases we have had  
9 evidence here that it is ineffectual, that he is  
10 discriminated against undoubtedly.

11 MR. McCURDY: Not by us, sir, no.

12 MR. POLLOCK: I can say that it isn't  
13 with the carpenters' union, but it is a transfer from  
14 one local to another but he doesn't become a full  
15 member of the second local. He becomes a card man.

16 MR. HAGUE: Not in our organization.

17 MR. POLLOCK: Well we are asking you  
18 as members, as craft union men if you have ever heard  
19 of this?

20 MR. HILBORN: We discriminate against  
21 a person, a man who transfers into an area by his  
22 choice and on that particular list we have<sup>in</sup>/the union  
23 office fourteen different people and the dates they  
24 reported unemployed and naturally enough these people  
25 have first preference, those who have been on the list  
26 the longest. Because there happened to be a job down  
27 the street and instead of sending the first  
28 carpenter he thinks that he should go on that job-is  
29 there a discrimination against that fellow?

30 MR. POLLOCK: No, but you maintain in





1 your office is a seniority list that is seniority to  
2 the basis that first out of a job is the first into  
3 a job.

4 MR. HILBORN: The date and the time  
5 that he reported.

6 MR. HAGUE: That would be dependent  
7 also because we have quite a number of sub-sections  
8 in our industry and we depend on qualifications.  
9 As you know we have pile driving and we have furniture  
10 workers and we have trim men and we have carpenters  
11 and it would be dependent on when the call came in.

12 MR. POLLOCK: But it is right there  
13 chronologically.

14 THE COMMISSIONER: What about the  
15 payment of fee for the entrance into the new union?

16 MR. HAGUE: There is none on a clear-  
17 ance. As Brother Brodack stated there is no charge  
18 whatsoever.

19 THE COMMISSIONER: There is one case  
20 in which the sum of \$300.00 was mentioned.

21 MR. HAGUE: In the carpenters the  
22 clearance is granted so long as you are paid up to  
23 the current month and you can deposit that clearance  
24 in any local in the North American continent.

25 MR. BRODACK: This is qualified to  
26 this extent, that if I am a member of the brotherhood  
27 for less than two years and I transfer say when I  
28 become initiated and I was in a local and the fee  
29 was \$50.00. If I moved into a local within a period  
30 of two years whose initiation fee was \$100.00 then I



1 would be required to pay the difference in fee. But  
2 after you have been in for more than two years then  
3 there is no difference in fee charge notwithstanding  
4 what you paid to join the Brotherhood or what the  
5 fee of that particular local is.

6 MR. POLLOCK: Can you move around  
7 freely within the province or do you have to intend  
8 to take up permanent residence in that new locality?

9 MR. HILBORN: No, the only criterion  
10 is that the person moving into an area that the local  
11 union be notified that he is working in that area so  
12 that we know where everybody is. As a member of a  
13 Brotherhood we can travel anywhere in the North  
14 American continent and as long as I report to that  
15 local and present them with a clearance card there  
16 is no problem.

17 THE COMMISSIONER: But you got the  
18 card, and once you establish your membership in one  
19 of the other locals.....

20 MR. HAGUE: That is right, sir.

21 MR. POLLOCK: I don't want to say this  
22 is a common or uncommon practice but it is a different  
23 practice than in some craft unions you will agree  
24 with that?

25 MR. McCURDY: Well we couldn't comment  
26 on what others do because I don't know and I don't  
27 think the others would know what prevails with the  
28 other unions.

29 THE COMMISSIONER: Your knowledge, is  
30 it as limited as that?





1 MR. McCURDY: Yes it is, sir.

2 MR. POLLOCK: I thought George McCurdy  
3 knew all and told all.

4 MR. McCURDY: Well we consider this to  
5 be quite necessary, that we do have this freedom of  
6 movement because by virtue of the mobile nature of  
7 the industry where people must move in order to find  
8 employment. So this is made as easy as possible.

9 THE COMMISSIONER: Well I would like  
10 to look on it in this country as being one, that you  
11 could move anywhere from the Atlantic to the Pacific.

12 MR. HILBORN: In fact in our organiza-  
13 tion some of the local unions established by by-law  
14 have quite a common practice that members of the wood-  
15 workers union which is amalgamated with the Society  
16 of Woodworkers of Great Britain come in exempt on  
17 initiation fee. If they will show proof of paid up  
18 membership which is in this organization which is now a  
19 member of our organization that they show proof of  
20 membership and qualification they can come in with  
21 the dispensation on the initiation fee which is  
22 basically \$15.00.

23 MR. POLLOCK: That makes it a  
24 preferential tariff for people from England.

25 THE COMMISSIONER: You mean the  
26 initiation fee is \$15.00?

27 MR. HILBORN: Yes, they get special  
28 dispensation because they happen to come from another  
29 craft union.

30 THE COMMISSIONER: What is the ordinary



1 initiation fee?

2 MR. HILBORN: \$50.00.

3 MR. BRODACK: It varies with each  
4 local union who have their own autonomy.

5 MR. POLLOCK: You give \$50.00 and a  
6 \$100.00 <sup>an</sup> as/initiation fee. Is that a general figure?

7 MR. McCURDY: There are many less than  
8 that.

9 MR. BRODACK: Ours is \$100.00 and  
10 Kingston is \$100.00.

11 MR. HILBORN: Ours is \$50.00.

12 MR. BRODACK: This is local autonomy  
13 and where the members vote on this by majority  
14 decision and then that has to be approved by our  
15 general office before it becomes a by-law.

16 MR. POLLOCK: Is the initiation fee  
17 remitted to the international or is it kept by the  
18 local?

19 MR. BRODACK: It is \$15.00 of each fee  
20 is sent.....

21 MR. HAGUE: \$10.00 is sent to head  
22 office and that is all, and the rest of it stays in  
23 their locality.

24 MR. POLLOCK: So if they want to  
25 charge \$100.00 they get \$90.00 for themselves and if  
26 they want to charge \$50.00 they get \$40.00?

27 MR. HAGUE: And if they want to charge  
28 \$10.00 then they get nothing.

29 THE COMMISSIONER: You make compre-  
30 hensive agreements don't you with groups of employers





1 in the construction work?

2 MR. McCURDY: Yes, sir.

3 THE COMMISSIONER: And you more or  
4 less agree that no other employer can come in to work  
5 in that district without accepting the agreement or  
6 the terms of the agreement made with the others?

7 MR. McCURDY: Oh yes sir. Naturally  
8 we would hold it to the prevailing collective agree-  
9 ment because if we signed with the brothers exchange  
10 as is normally the case in 'X' area and a contractor  
11 comes from 'Y' area into 'X' and if we reduce the  
12 terms of that collective agreement for him we are  
13 being somewhat less than fair to the exchange members.

14 THE COMMISSIONER: I can quite see  
15 that but there is no exclusion from working with him  
16 if he does subscribe?

17 MR. McCURDY: No we are happy to see  
18 him come.

19 MR. POLLOCK: What if they won't let  
20 him into the association?

21 MR. HAGUE: We sign him to a separate  
22 agreement under the same terms.

23 MR. POLLOCK: Well some people have  
24 appeared and said that there is pressure placed upon  
25 outside employers by this type of a situation which  
26 "we will not work on a project that is not done by a  
27 member of the association"; that is not done in the  
28 case of the carpenters?

29 MR. HAGUE: No it is not the case of  
30 the carpenters and I don't know if I am speaking out



Toronto, Ontario

our  
1 of turn but/business agents are used to sticking their  
2 neck out here and this is why Ontario Hydro is out on  
3 strike at the present time. We as a carpentry industry  
4 asked them to sign the local rates and conditions and  
5 that is all, no more or no less.

6 MR. POLLOCK: I wish it was that simple.

7 MR. HAGUE: Well this is all that we  
8 asked, the local rates and conditions.

9 THE COMMISSIONER: At any rate you are  
10 prepared to make an agreement with any employer on  
11 terms that have been settled?

12 MR. HAGUE: Yes, established in that  
13 area.

14 MR. McCURDY: That is if he has a  
15 contract and he is going to perform the work certainly  
16 we will sign him up.

17 MR. POLLOCK: Some of the local rates  
18 and conditions fashioned at home seem to be designed  
19 for the people at home and the outsiders sometimes  
20 have to pay an additional charge and I've seen some  
21 contracts that provide for additional transportation  
22 costs, payments to union members by employers outside  
23 the geographical - coming in from outside the  
24 geographical location.

25 MR. HAGUE: If we could not supply to  
26 that particular contractor employees, and a person has  
27 got to come from another town then transportation; but  
28 this is not what you are saying?

29 MR. POLLOCK: No that is a different  
30 point. The point is in the agreement that is signed





1 by the brothers exchange and the building trades  
2 unions in the locality it says for construction  
3 companies coming in from outside of this locality  
4 they shall pay an additional differential.

5 MR. McCURDY: We analyzed every  
6 collective agreement in the province and there aren't  
7 any collective agreements like this.

8 MR. HAGUE: Not in the carpenters  
9 organization.

10 THE COMMISSIONER: There is another  
11 question that arises. Let us say the construction of  
12 an apartment house. You have the contract and let us  
13 assume that you are in a position or in a dispute  
14 over wages. You are in a position to strike. Now  
15 you have a very powerful internal cohesion as a  
16 craft union.

17 MR. McCURDY: Yes we have, sir.

18 THE COMMISSIONER: You go on strike  
19 there and you therefore hold up the carpentry work,  
20 don't you?

21 MR. McCURDY: Yes, sir.

22 THE COMMISSIONER: By reason of the  
23 integrated interests that you have in your union,  
24 that is going to remain undone from that moment on,  
25 that is the carpentry work. You have accomplished  
26 the object of your strike by holding up the  
27 carpenters' work. It may be that in some respects  
28 the rest of the work cannot proceed without the  
29 carpentry work, but until that point is reached why  
30 should the rest of the work be held up?



1 MR. McCURDY: In some cases in some  
2 cities the building trades do have this arrangement.

3 MR. POLLOCK: I would suggest Toronto  
4 for example.

5 MR. McCURDY: Yes, and Hamilton I'm  
6 thinking of in particular and the Niagara Peninsula  
7 as well. No picketing is carried out on an agreement  
8 arrangement within the building trades that the  
9 carpentry work shall not be touched at all during  
10 that period.

11 THE COMMISSIONER: They will work as  
12 long as they can without the carpentry work and then  
13 it all stops.

14 MR. McCURDY: Yes.

15 MR. POLLOCK: So you resolve one of  
16 the very pressing problems of multi-situs picketing  
17 where you have other construction trades refusing to  
18 cross your picket line, well that is a reasonable solution.

19 THE COMMISSIONER: This is not so in  
20 every case. In London you had that situation, is  
21 there any way in which it could be made provincewide.  
22 You are all one and you all belong to this organiza-  
23 tion.

24 MR. BRODACK: There's a very important  
25 thing here that every local as far as our brother is  
26 concerned has its autonomy and Toronto local or Sarnia  
27 local or the Ontario Provincial Council, there is no  
28 authority to instruct or force a local union to do  
29 anything.

30 THE COMMISSIONER: Well the only point





Toronto, Ontario

if

1 is that/you have that consolidation and collaboration  
2 then you don't need a picket line. The work stops and  
3 that is the object of the picket line to stop. Well  
4 this stopped without that. The moment you put a picket  
5 line there as a sort of superfluous thing, then you  
6 have the trouble with the others and they think that  
7 here's a sign that we are called upon to show the  
8 general solidarity of all the union workers regardless  
9 of the craft or anything of that sort.

10 MR. McCURDY: At the moment this  
11 arrangement in the province of Ontario that ultimately,  
12 I would say it probably will spread to the other areas.

13 MR. POLLOCK: You mentioned in the  
14 body of your Brief an address made by an unnamed  
15 person and it is just as well that he went unnamed,  
16 relating how to organize against the union when they  
17 come in.

18 MR. McCURDY: That is on page 30, sir.

19 MR. POLLOCK: That was in 1959. Is  
20 that still continuing where they have - I think Mr.  
21 Hilborn has indicated he has some letters that form  
22 a kind of pattern of this type of activity where they  
23 are told that and I think the first part of the sub-  
24 mission isn't too bad, if they can keep a union out  
25 by making their conditions so attractive then you  
26 have really indirectly accomplished one of your pur-  
27 poses or whether they are free riders to that extent.  
28 But when he says "however, if they get a few to sign  
29 you are in trouble. Keep them out and talk to your  
30 men and explain this to them, fire anybody who signed



1 any union cards, it only takes one or two". I daresay  
2 that is probably right but also probably very contrary  
3 to the Labour Relations Act. Does that kind of con-  
4 cerned effort exist today?

5 MR. McCURDY: Certainly. We have  
6 another case here, in 1962 and this one should prove  
7 most interesting and I would be happy to leave it  
8 with you if you could give it back to us later so  
9 we could get it to the local union. This was in 1962  
10 and it isn't necessary to name the company, this  
11 happened at the Boys' Training School at Simcoe and  
12 this is the actual memo of the Business Agent and I'll  
13 just read a portion of this. "On March 20th, 1962,  
14 five carpenters were asked if they had joined the  
15 union by the Superintendent"-you see an application  
16 for certification had been made. "On March 21, 1962,  
17 all five men were informed their services were no  
18 longer needed and they were replaced by other  
19 carpenters. On March 26th, 1962, I and the name of  
20 the Business Agent for the local union returned to  
21 the job site and were handed the enclosed note by two  
22 Provincial Policemen stationed on Highway 3 at Simcoe.  
23 On refusing to comply with the note I was forcibly  
24 removed from the job site and the two Provincial  
25 Police were told not to return. At the time I was  
26 acting as a business representative for six other  
27 trades employed on the project." Then he tells about  
28 the hearing finally on July 20th, 1962, and we fought  
29 that case under Section 60 of the Act and the men  
30 were returned and given the right to return to the





1 job and they were given all of their back money they  
2 had lost.

3 THE COMMISSIONER: Those are the five  
4 men you talked about?

5 MR. McCURDY: Yes but here is the  
6 note and the strike on which the Officer removed the  
7 Business Agent from the project. In other words he  
8 was denying him the right to contact the other  
9 employees on the job for whom he worked.

10 THE COMMISSIONER: Did he explain to  
11 the Officer that there were these other men?

12 MR. McCURDY: Yes and here is the note.  
13 "Dated March 26th, 1962, this is to inform you that you  
14 are not permitted on the building site of the Boys'  
15 Training School at Simcoe at any time day or night"  
16 and it is signed by the Superintendent on the project.  
17 On the strength of this he handed this over to the  
18 Officer and the Officer evicted him from the premises  
19 and denied him the right to come on the premises any  
20 further. Now they pursued this whole question under  
21 Section 65 to gain the proper rights or gain some  
22 fairness for the five carpenters who were discharged.  
23 But they didn't pursue the other question any further.  
24 This might be of interest to you to read, and the  
25 details of this case.

26 MR. HILBORN: I might say that in a  
27 matter of about two months ago I had a case of  
28 organizing a plant in which the company felt that  
29 they had ear-marked two of the instigators that had  
30 the union and I might say it wasn't the union-the



1 employees approached us for organization and  
2 consequently they were both fired. We launched the  
3 Section 65 case and due to the evidence coming out  
4 at the certification at which petitions had been  
5 submitted we were granted the certification and due  
6 to that evidence which reflected on the 65 case the  
7 employees were rehired but they were actually fired.  
8 But here is the statement of <sup>the</sup> interference of companies  
9 in organizing, that is peaceful organizing of groups  
10 of employees. This is a file from the Ontario Labour  
11 Relations Board granting certification and the inter-  
12 viewing of the witnesses on the petition.

13 MR. POLLOCK: We still have Neanderthal  
14 employers who say this is a legitimate interest in  
15 defeating unionism.

16 MR. HAGUE: This is quite correct. I  
17 had occasion last year on a residential site - I had  
18 a certain man come at me with an axe, he was so  
19 annoyed that I had certified him legally under the  
20 Labour Relations Act and I had <sup>asked</sup> him to sign a  
21 voluntary agreement and he refused. So I signed his  
22 employees up and applied for certification and the  
23 next time I went back on that job site he said "I'm  
24 so mad I could hit <sup>you</sup>, and he had an axe in his hand.  
25 In that case I was sorry I didn't have a camera.

26 MR. POLLOCK: In that case he would  
27 just spit at you.

28 THE COMMISSIONER: There's a question  
29 that I wanted to ask you. On page 34 where you speak  
30 of the question of the corporation, a legal entity.





1 Sometimes these words themselves are terrifying and  
2 people don't appreciate what they mean. Why do you  
3 say we would become the largest target in the province?  
4 What is there in the factor of the corporation that  
5 would bring about any such condition?

6 MR. McCURDY: Well, sir, we believe  
7 that this would be the natural reaction of management  
8 if- you see we depend on those funds and they aren't  
9 as large as many people make them out to be because  
10 they come through the dues' dollars.

11 THE COMMISSIONER: But what would you  
12 have to do to have those funds exposed to any risk.  
13 You would have to violate a law that was applying to  
14 all of us equally.

15 MR. McCURDY: Yes but we may have, sir,  
16 in the case of one member and he already had relief  
17 anyway sir, there is the collective agreement and  
18 the arbitration.

19 THE COMMISSIONER: Now just a moment.  
20 Do you think that maybe the act of any individual  
21 member would involve the liability of the union?

22 MR. McCURDY: Yes, sir.

23 THE COMMISSIONER: Where do you get that?  
24 What is the basis of your view, or that view?

25 MR. McCURDY: If we are declared a  
26 legal entity this means to me that <sup>if</sup> any one member of  
27 that local union committed an act which we may not  
28 condone, we may find ourselves very well winding up  
29 in costly litigation.

30 THE COMMISSIONER: Well the first



1 question would be did the union authorize that act?

2 MR. McCURDY: Yes, it would be an  
3 actual question.

4 THE COMMISSIONER: And what would you  
5 say if it was done by an individual without recogni-  
6 tion by anybody and against the directions of the  
7 officers?

8 MR. McCURDY: Well we would naturally  
9 say that we hadn't authorized the action and  
10 certainly did not condone the action.

11 THE COMMISSIONER: And if that were  
12 the truth and it was established you would be right.  
13 There is no liability because one man becomes an  
14 outlaw.

15 MR. POLLOCK: I think what Mr. McCurdy  
16 is saying that even if they have vindicated themselves  
17 they would still have to incur the cost of litigation  
18 and they are afraid that any frivolous action might  
19 be commenced against them.

20 THE COMMISSIONER: Now you don't mean  
21 that the cost of litigation, because you recover them  
22 largely. But every litigant has to pay and you  
23 wouldn't be the only one. We all have to pay a bit  
24 but that isn't what you mean. You don't want action  
25 because you're afraid of the damages but if you  
26 aren't a party to the damages you aren't liable.

27 MR. McCURDY: I am thinking of both  
28 the litigation cost and the possible damages too.

29 THE COMMISSIONER: Well I think that  
30 suggestion was inappropriate.





THE COMMISSIONER: But that is not



1 bargaining in good faith. These imaginative  
2 possibilities really don't amount to anything else  
3 very much. suggest a case where you as a union  
4 would be put in danger. What would your individual  
5 man do that would involve you in something that  
6 would be horrible, and consume your collections of  
7 years. It's just a part of imagination that brings  
8 that out. I would say that your union has been  
9 characterized by an observance of our law. Then that  
10 is the answer. You are not going to become involved  
11 because you are made a corporation. And I might tell  
12 you that one of the largest unions in the country  
13 said that we have no objection to <sup>being</sup> / put on the same  
14 level as the ordinary citizen of the country. If we  
15 cause damage as a union we ought to pay for it, that  
16 is if it is done illegally.

17 MR. McCURDY: You see, you wonder  
18 about cases where we might become involved in damages  
19 and under all sorts of provocations, and the case of  
20 where Professor Bora Laskin or former Professor Laskin,  
21 ruled in the United Steel Workers Aerocyde Dispensers  
22 case, they had this wildcat strike. You see some  
23 fellows were not able to restrain the over-all groups.

24 THE COMMISSIONER: They really tried  
25 to do it.

26 MR. McCURDY: Yes, sir.

27 THE COMMISSIONER: Then the corporation  
28 wouldn't be liable.

29 MR. McCURDY: Well unfortunately this  
30 is a precedent setting decision in Mr. Laskin's case,





1 where he said the company had contributed by its  
2 contract to that wildcat strike. So we were clear  
3 in this case but generally the Union is faulted or  
4 has faulted when the wildcat strike develops.

5 THE COMMISSIONER: It is on the basis  
6 of what is found to be the facts, that is all. It  
7 isn't found to be at fault because it is a Union of  
8 which these men were members.

9 MR. POLLOCK: In the Polymer case the  
10 question was whether or not the Union supported the  
11 activities of the people. Although we found that  
12 because the shop stewards were participating and  
13 weren't disassociating themselves and trying to  
14 persuade the people not to participate in this  
15 unlawful activity, they found the Union liable.  
16 That is the type of thing that this morning, it has  
17 been suggested at other times by other people but it  
18 hasn't been suggested this morning that you are going  
19 to be the absolute guarantors of every member that  
20 you have, as long as you exercise the required  
21 responsibility in dissuading them from taking this  
22 action and doing all in your power, then you have  
23 nothing to fear other than the legal costs.

24 THE COMMISSIONER: By the way on  
25 page 7 there is an error on your part. You are  
26 quoting figures that are shown in that report as  
27 being Carruthers. You say strikes having fewer than  
28 100 employees ranged from a low of 89.4% to a high of  
29 95.2%. Now that should be 500 employees.

30 MR. McCURDY: I stand corrected, sir,



1 that should be 500.

2 THE COMMISSIONER: Because it makes  
3 some difference. I couldn't understand in looking  
4 at the report you can see that the five is not  
5 distinctly indicated, but that is what it is. They  
6 took 500 to a 1000.

7 MR. POLLOCK: I just have one other  
8 point and it refers to the question of enforcement  
9 of the criminal law. When it is suggested that active  
10 use of the criminal law provisions might satisfy the  
11 cases in which the injunction is now sought, I wonder  
12 whether people that make that suggestion ever really  
13 consider the full impact of Section 366 of the  
14 Criminal Code relating to watching and besetting,  
15 which makes criminal any attendance at this plant  
16 in any numbers that exceeds the communication of  
17 information. So that if there is any of those  
18 matters mentioned in the first part of the section  
19 relating to violence or threats or watching and  
20 besetting, then that is criminal conduct today. The  
21 only saving is that in sub-section (2) it says  
22 attending at a plant for the purposes of receiving  
23 or communicating information or obtaining information,  
24 is not watching or besetting. All it says is that  
25 it excepts a little bit out of watching and besetting  
26 but the rest of the conduct that occurs at a picket  
27 line may in fact be illegal and unlawful and criminal.  
28 So far that section of the Criminal Code hasn't been  
29 resorted to in all its rigor. I think that perhaps  
30 the advocates of enforcement of the criminal law





1 should consider the full impact of that section before  
2 they give carte blanche recommendations to say enforce  
3 the criminal code and that will be the answer.  
4 Because I am afraid that it will be a larger answer  
5 or a louder answer to the question of what is  
6 anticipated. Well Mr. McCurdy if you and your  
7 compatriots haven't anything else to add we would  
8 like to thank you very much for your attendance today  
9 and for the excellent submission that you have made  
10 and the contribution that you have all added to this  
11 very difficult inquiry. You are all to be commended  
12 and thank you.

13 MR. McCURDY: Thank you Mr. Pollock  
14 and to you, Mr. Rand, thank you very much, sir.

15 MR. POLLOCK: We now have the Sarnia  
16 Construction Association, E.P. Coslett, General  
17 Manager, and Mr. Coslett I wonder if you would intro-  
18 duce the members.

19 MR. COSLETT: This gentleman is Mr.  
20 Bolton, a Director of the Sarnia Construction  
21 Association, Mr. N. Bolton; Mr. William Rankin;  
22 Mr. Ray Curran and Mr. K. McCormack.

23 MR. POLLOCK: Mr. Coslett you have  
24 witnessed the presentation earlier and I don't know  
25 if you were here for my opening remarks<sup>in</sup> which I  
26 merely said that the Commission conducts informal  
27 sessions and we hope by the exchange of ideas that  
28 we can elicit some information for the benefit of  
29 the Commission. Please feel free to bring the  
30 points up presenting the position the way you want to,



1 and the members who are with you can participate at  
2 any stage and all I ask is that one speak at a time  
3 because this gentleman here has to record the  
4 evidence.

5 MR. COSLETT: Do you wish me to read  
6 the submission, sir?

7 MR. COSLETT: "Mr. Commissioner:

8 In Sarnia the various construction  
9 Unions have agreements, which in the  
10 main have jurisdiction over all Lambton  
11 County, there is a peculiar position  
12 which gives the construction group of  
13 Unions the power to virtually dictate  
14 the acceptance of its bargaining  
15 proposals.

16 This imbalance of bargaining power  
17 is brought about by the fact that due  
18 to the heavy concentration of large  
19 petro-chemical plants in the area,  
20 there are always several large  
21 contractors performing work in the  
22 county under the terms of the so called  
23 International Agreements. The  
24 Commission will be well aware of the  
25 fact that in essence an International  
26 Agreement provides for the contractor  
27 to perform work under the terms and  
28 conditions of locally signed agreements,  
29 but specifically prohibits both strikes  
30 and lockouts at any time.





1                   So conditions arise where local  
2 bargaining breaks down, conciliation  
3 procedures are invoked and a legal  
4 strike is called against the local  
5 contractors. Pickets appear at the  
6 entrance to premises where local con-  
7 struction companies are working, and  
8 all construction activity, involving  
9 employees of local contractors groups,  
10 stops.

11                   The national and international  
12 contractors, by virtue of their  
13 separate agreements, are able to  
14 continue working, and because a high  
15 percentage of the labour force is  
16 employed by the national or inter-  
17 national contractor, a high percentage  
18 of the labour work force continues to  
19 work normally. The only people hurt  
20 by the Union's use of its economic  
21 power is the local contractor, who is  
22 now in the position of having all his  
23 work stopped, yet knowing that 70% to  
24 80% of the local labour force is  
25 continuing to work for the large  
26 contractor.

27                   Clearly, the local contractor,  
28 who negotiates and signs the local  
29 agreements, is now at an impossible  
30 impasse, and in the face of the fact



1 that relatively few tradesmen are  
2 idled by the strike which could go on  
3 indefinitely stopping all his work,  
4 he might as well sign any agreement  
5 put in front of him.

6 You will see that there is no  
7 balance of bargaining power under  
8 existing conditions.

9 Respectfully submitted on behalf  
10 of the Sarnia Construction Association."

11 MR. POLLOCK: What do you suggest Mr.  
12 Coslett?

13 MR. COSLETT: We want to make this  
14 point quite clear, sir, that the facts as we state  
15 in this Brief are authentic, the percentages that  
16 we quote are as high as we state, and we wonder  
17 whether some solution might be that at negotiating  
18 time, that all contracts that are being used in an  
19 area are subordinate to those locally signed.

20 MR. POLLOCK: So that the international  
21 contractor incorporates the terms and conditions and  
22 also incorporates the termination date. Really isn't  
23 your problem going back a little farther than that,  
24 that the international contractors are more  
25 interested in a short run than in a long run and in  
26 their view they can get their contract off some other  
27 place and finish it up. They are prepared as they  
28 must/I suppose to agree that if your strike is lost  
29 and you sign the agreement, or rather let's say your  
30 strike is won and you sign an agreement at high rates





1 the next time they come into this group they are  
2 going to have to pay those higher rates. Your  
3 problem is that there isn't sufficient coercion of  
4 that factor to bring them into unity with the Sarnia  
5 Construction Association. And I might say any other  
6 local construction association because yours is not  
7 a unique problem by any stretch of the imagination.

8 MR. COSLETT: No, sir, the only thing  
9 that we say is unique to Sarnia is because of the  
10 heavy concentration of the particular kind of  
11 industries that we have in our county, with  
12 proprietary rights to products. This forces clients  
13 and owners of plants to use the large international  
14 contractor to do certain kinds of work and there is  
15 always this kind of work going on. So I don't know  
16 of any other area in Canada where the percentage of  
17 work being carried on by the large national contractor  
18 is always consistently as high as it <sup>is</sup> in our particular  
19 location.

20 MR. POLLOCK: That is because of the  
21 nature of the petro-chemical industry that exists  
22 there and the need for large expansion and large  
23 construction companies.

24 MR. COSLETT: Yes. Just to explain  
25 and without elaborating in too much detail, there are  
26 certain processes in certain plants which certain  
27 international large contractors with international  
28 agreements, have the rights and patents too, and the  
29 plants will use 'X' company every time that it wants  
30 to do something to that particular part of its plant.



1 MR. POLLOCK: If they're going to  
2 build a catalytic cracker they will bring in the  
3 same people to do it all the time.

4 MR. COSLETT: Yes.

5 THE COMMISSIONER: They bring them  
6 in from where?

7 MR. COSLETT: Anywhere on the  
8 continent, sir.

9 THE COMMISSIONER: Who are specifically  
10 the parties to these international agreements?

11 MR. COSLETT: There are literally  
12 hundreds and hundreds of them, sir.

13 THE COMMISSIONER: But who signs the  
14 agreement? You must have two parties to sign an  
15 international agreement, who are they?

16 MR. COSLETT: The contractor and the  
17 various trades, one by one. For example, the pipe  
18 fitters have probably I would say two hundred  
19 companies with international agreements and there  
20 are six closely typed pages.

21 THE COMMISSIONER: The pipe fitters,  
22 is that an international union?

23 MR. COSLETT: Yes.

24 THE COMMISSIONER: Well what would  
25 you say to the suggestion that the local contracts  
26 should be harmonious with the international? The  
27 international contains a prohibition against strikes,  
28 and the local doesn't.

29 MR. COSLETT: The local agreement  
30 does sir, yes but the international contractors is





1 a "running on" thing. It doesn't really have a  
2 termination. It has a starting date and it runs  
3 on from year to year. It is not the type of agree-  
4 ment which normally functions for one, two or three  
5 years and then terminates.

6 THE COMMISSIONER: I am not dealing  
7 with the period of the contract but with the material,  
8 the provisions of it, such as non-strike. Supposing  
9 that was inserted in your agreement with the local  
10 union?

11 MR. COSLETT: It is already, sir.

12 THE COMMISSIONER: But you say that  
13 you can strike but they can't.

14 MR. COSLETT: I say that the union  
15 can strike after bargaining and after the due process  
16 of conciliation. But then ....

17 THE COMMISSIONER: But they can't do  
18 that in the face of the international agreement.

19 MR. CURRAN: Well you see, sir, they  
20 can strike against our construction company belonging  
21 to the association but when they strike against us  
22 they have a strike clause in the international agree-  
23 ment that they cannot strike against the international  
24 contractors, so that the men keep on working at the  
25 international contractor's site and they have a  
26 contract against us.

27 THE COMMISSIONER: What I am suggesting  
28 is what is there to prevent you and you may not be  
29 able to do it but can you insert in your contract  
30 a prohibition against striking?



1 MR. CURRAN: No sir, they won't agree  
2 to this.

3 THE COMMISSIONER: But they do agree  
4 to the other?

5 MR. CURRAN: Yes.

6 THE COMMISSIONER: Then they are  
7 discriminating against you and the international  
8 contractors?

9 MR. CURRAN: That is right because  
10 regardless of what we sign in our area they can get  
11 it retroactive or any other way with the international  
12 contractors, so they don't care. If they go to work  
13 on the international site they know they are going to  
14 pick up whatever benefits they get on the local scene.

15 MR. POLLOCK: But really the inter-  
16 national contract which has no termination date is a  
17 document that says we agree to employ your people on  
18 the terms and conditions that are spelled out in the  
19 local agreement and that international contract  
20 never comes to an end, it just exists.

21 MR. CURRAN: That is right, sir.

22 MR. POLLOCK: And periodically during  
23 its life the terms and conditions change as the local  
24 conditions change.

25 THE COMMISSIONER: But the vital  
26 question against strike is not in the local but in  
27 the international?

28 MR. CURRAN: That is right.

29 THE COMMISSIONER: Well don't forget  
30 that because that is the whole basis of the complaint





1 is it not?

2 MR. POLLOCK: Well that provision is  
3 in your local agreement but when your local agreement  
4 expires they are free to strike.

5 MR. CURRAN: Yes that is right.

6 MR. POLLOCK: But the international  
7 agreement never expires.

8 MR. CURRAN: No, no, but you are  
9 relying as I understand this letter on the facts  
10 of the specific agreement not to strike. Isn't that  
11 so?

12 THE COMMISSIONER: That is exactly  
13 what your letter says.

14 MR. COSLETT: Well yes sir, I think  
15 we have gone off on different tracks somewhere. The  
16 introductional agreement doesn't say in great big  
17 letters on page 1 "there shall be no strikes and  
18 there shall be no lock-outs".

19 THE COMMISSIONER: "but specifically  
20 prohibits both strikes and lock-outs at any time".  
21 Now can you get in anything more specific than that?

22 MR. COSLETT: It does say that sir,  
23 but it also says many of the things that defines  
24 basic working conditions. It contains like any other  
25 agreement a prohibition against strikes and lock-outs.  
26 All we are saying is that when our agreement  
27 terminates, on a fixed date, if we can't reach  
28 agreement with the union on the renewal terms then  
29 we go to conciliation.

30 THE COMMISSIONER: Yes I can under-



1 stand all of that but I want to know is, what do you  
2 mean by this. It says "but specifically prohibits  
3 both strikes and lock-outs at any time". Does that  
4 enable the rest of the force to continue and your men  
5 are made idle?

6 MR. COSLETT: That is right, sir, yes.

7 THE COMMISSIONER: Because there is  
8 nothing to prevent that. The law says you may strike  
9 unless you agree not to.

10 MR. POLLOCK: Your problem is that  
11 you are not a party to that other contract and you  
12 have no power to control that contract.

13 MR. COSLETT: That is true.

14 THE COMMISSIONER: That is true but  
15 the local unions are the same.

16 MR. CURRAN: They are for this 100%  
17 because they can use this economic club against us.  
18 How can we compete with a situation where for  
19 every hundred employees we have eight of them working  
20 for the international.

21 THE COMMISSIONER: All I'm trying to  
22 do is state what the issue is, that is all.

23 MR. POLLOCK: Well you face that  
24 problem even without international contractors. They  
25 are having that problem in Toronto with the inter-  
26 national contractors outside the association. They  
27 have had the problem in Hamilton in the same way.  
28 The problem of course is that the employers don't  
29 stick together.

30 THE COMMISSIONER: Well why don't the





1 employers become associated in that respect with  
2 the international employers?

3 MR. COSLETT: Because, sir, there is  
4 a pretty clear line. We are a local construction  
5 association. Our contractor members are resident  
6 in Sarnia. An international contractor, and we have  
7 them in Sarnia right this very day, we have the  
8 Ralph N. Parsons Company from Los Angeles. He isn't  
9 particularly concerned about Sarnia. He is there to  
10 do a job, to get it done and get it finished and get  
11 away and he is using Canadian labour while he is  
12 here.

13 MR. CURRAN: This is one of the big  
14 reasons that these international companies in some  
15 instances are able to accomplish the jobs.  
16 There are no strikes or lock-outs and the jobs will  
17 continue and there are no stoppages of work which is  
18 a big advantage to them. But the local companies do  
19 not have this agreement and they cannot get it.

20 MR. POLLOCK: You are the third party  
21 that is faced with a problem that both these other  
22 parties to that contract are ecstatically happy about  
23 that arrangement, and that the international contrac-  
24 tors don't care very much to associate themselves  
25 with you because they like the conditions as they  
26 are. The only way to get them to join your  
27 association is to compel them in some way or <sup>to</sup> persuade  
28 them, that it is against their interests to separate  
29 this way because the rates go up and I suppose to  
30 them that is a very insignificant factor.





1 THE COMMISSIONER: Do these same  
2 international contractors spread their work much  
3 over the province, or is it more or less unique as  
4 you said in Sarnia?

5 MR. COSLETT: I think they are spread  
6 pretty far and wide over the whole of Canada, sir,  
7 but we always found a heavy concentration of them  
8 in and around Sarnia because if you know Sarnia  
9 there is one petro-chemical plant after another for  
10 miles in our territory.

11 MR. POLLOCK: It is not only inter-  
12 national contractors but national ones too. There's  
13 the Foundation Company.

14 MR. COSLETT: There are many Canadian  
15 companies and companies based in the United States.  
16 We're not at loggerheads with them, we are not  
17 trying to make that point. But it does cause a  
18 severe imbalance of power where we try to negotiate  
19 an agreement.

20 THE COMMISSIONER: You couldn't  
21 bring members of these unions in from the outside  
22 points?

23 MR. RANKIN: The national contractors  
24 are very cautious about not joining our association.  
25 It's something they make a very definite point of  
26 when they come in, we may associate with them but  
27 they will not join our association for this very  
28 reason.

29 THE COMMISSIONER: Well why/ the have  
30 unions around Sarnia agreed to that clause, because



1 virtually they can dominate the working forces  
2 around Sarnia?

3 MR. RANKIN: Well the local union  
4 in Sarnia really doesn't have too much to do with  
5 signing a national contract. This is all done at  
6 the headquarters level.

7 THE COMMISSIONER: Well that was my  
8 first question and I understood you to say that  
9 they make the contracts at a local level.

10 MR. CURRAN: Well the local union  
11 support this method 100% because it gives them  
12 a tremendous lever against us. They can set  
13 precedence in Sarnia and this is another disadvantage  
14 of the system.

15 MR. POLLOCK: They are very happy  
16 with this because it gives them a very strong  
17 bargaining power. I suppose the international  
18 contractors and the national contractors are your  
19 equivalent of strikebreakers?

20 MR. CURRAN: Well <sup>with</sup> the labour shortage  
21 that we have had now the last three or four years,  
22 when they go on strike against local contractors  
23 they can really take all the local contracting men and  
24 put them in international contract jobs and only  
25 have enough men left for information and pickets  
26 and this type of thing. That's all they need. They  
27 can go on a strike for a year on that basis and  
28 eventually we're going to have to give in and they  
29 can really get any kind of settlement they desire  
30 in the long run.





1 THE COMMISSIONER: I suppose you  
2 won't allow them to take on these strikebreakers,  
3 would that help you?

4 MR. POLLOCK: Mr. Commissioner, do  
5 you mean let the strikers take the alternative  
6 employment?

7 MR. CURRAN: So that each company  
8 would freeze its labour force more or less and they  
9 wouldn't hire any other employees.

10 MR. RANKIN: We asked for this  
11 assistance when we ran into a position like this to  
12 go to the industrial people locally and asked for  
13 assistance but again it goes back to the bargaining  
14 level. I think they honestly do try to help as much  
15 as they can but they have contractors that they have  
16 employed and they have commitments probably with  
17 penalty clauses and it is quite complicated.

18 MR. POLLOCK: What else would you  
19 suggest?

20 MR. COSLETT: Well we really see no  
21 other solution, but some kind of ruling which will  
22 limit the use of the international or national  
23 agreement.

24 THE COMMISSIONER: Well if you  
25 prevent the striking employees or local people from  
26 working for you and prevent them from taking new  
27 employment it would be some help undoubtedly.

28 MR. CURRAN: It would be of some  
29 help, yes sir.

30 MR. POLLOCK: Of course they would



1 soon quit you and go and work for them anyway.

2 MR. CURRAN: I don't know how you  
3 would control a thing like that, I think it would be  
4 a very difficult proposition. We have even run into  
5 a problem with the shortage of manpower, that they  
6 will have a strike locally and send them to Windsor  
7 or London outside of our particular area and the men  
8 will pay back money to the people that are still on  
9 the picket lines in Sarnia.

10 THE COMMISSIONER: Are you able to  
11 bring in strikebreakers?

12 MR. CURRAN: No. Our union agreement  
13 is that we strictly hire union people and when they  
14 are on strike there is no way that we can really  
15 bring in strikebreakers.

16 THE COMMISSIONER: Well you might  
17 bring them in from outside even if they were members  
18 of the union.

19 MR. COSLETT: But they wouldn't come  
20 sir. And in the construction the use of strike-  
21 breakers is absolutely nebulous.

22 THE COMMISSIONER: Is that so  
23 generally?

24 MR. COSLETT: I have no recollection  
25 of a single case where strikebreakers were used in  
26 a unionized area.

27 THE COMMISSIONER: I suppose you can  
28 say that in construction the unions are pretty well  
29 held together?

30 MR. RANKIN: Yes sir, they are all



1 A.F. of L. tradesmen.

2 MR. POLLOCK: It is a problem. And  
3 gentlemen all I can say is thank you for bringing  
4 this to our attention. It is something which is  
5 an extremely difficult one to wrestle with and we  
6 will see if in our studies we can shed some light  
7 on a solution. Mr. Coslett, thank you very much  
8 sir.

9 This Hearing is now adjourned until  
10 next Wednesday at 10:00 a.m.

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13 ---Adjournment.  
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